

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19088 of 2024

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BBCPL- GRD (JV) having its place of business at Purani Bazar, Jamui-811307 represented by Rajiv Ranjan Bhalotia Male aged about 65 Years, Son of - Ram Pratap Bhalotia, Resident of Village- Purani Bazar, Post - Jamui, District- Jamui (Bihar) - 811307 one of the directors in the member of the joint venture namely Balkrishna Bhalotia Construction Private Limited registered company having its registered office at Purani Bazar, Jamui-811307.

... .. Petitioner/s

Versus

1. The Union of India Through The Secretary, Ministry of Road Transport And Highways, Government of India, New Delhi.
2. The Secretary, Ministry of Road Transport And Highways, Government of India, New Delhi.
3. The State of Bihar through Additional Chief Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Chief Engineer NH (South) Wing, Road Construction Department, Government of Bihar, Patna.
5. The Chief Engineer Cum Regional Officer, Ministry of Road Transport And Highways, Bihar, Patna.
6. The Superintending Engineer, NH Work Circle Patna, Road Construction Department, Government of Bihar, Patna.
7. The Executive Engineer, NH Division Number 2, Bihar Sharif, Road Construction Department, Government of Bihar, Patna.
8. The Under Secretary (Finance IFD), Ministry of Road Transport and Highways, Government of India, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate Mr. Atal Bihari Pandey, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Aditya Raman, Advocate Mr. Akash Kumar, Advocate
For the Respondent/s	:	Dr. K.N. Singh, Additional Solicitor General Mr. Arvind Kumar, CGC Mr. P.K. Shahi, Advocate General

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 18-12-2024

The petitioner is aggrieved with the disqualification of the tender submitted. The Request for Proposal (for brevity referred to as 'RFP'), for construction of three bypasses at Sheikhpura, Jamui and Khaira with a re-alignment at Sikandara, was published as per Annexure-P/1. The petitioner submitted a tender which stood disqualified as per Annexure-P/10. The reason for the tender to be non-responsive was that it did not meet the requirement of the Digital Signature Certificate (for brevity 'DSC') being in the name of the authorized signatory as authorized in Appendix-III of the RFP.

2. Learned Counsel for the petitioner specifically referred to Annexures- P/6 and P/7, which are stated to be respectively the Power of Attorney appointing the Lead Member of the Joint Venture and the Lead Members' Power of Attorney, for signing the bid document.

3. Admittedly, the petitioner is a Joint Venture of two entities, one Balkrishna Bhalotia Construction Private Limited and the other Ganesh Ram Dokania (for brevity referred to as 'BBCPL' and 'GRD'). Annexure-P/6 is the Power of Attorney executed by both the entities of the Joint Venture; one a Private Limited Company and the other a partnership firm.



4. As per Annexure-P/6, BBCPL was appointed as the Lead Member. Annexure-P/7 is the Power of Attorney for signing of bid, executed by BBCPL in the name of one Himanshu Shekhar, son of Sri Rajiv Ranjan Bhalotia. The DSC issued, produced at Annexure-P/9, is in the name of Vivek Kumar Bhalotia; who is not the person authorized under Annexure-P/7. The name of Vivek Kumar Bhalotia is also referred to in Annexure-P/8; which is the Bid Submission Confirmation, as the contact person of the BBCPL. Hence, the DSC, as is seen from Annexure-P/9, is in the name of a person other than the one authorized as per Annexure-P/7.

5. Further, Appendix-III, as available in the RFP, which is the format for Power of Attorney for signing of bid, requires the Power of Attorney to be executed by the Joint Venture and not by the Lead Member. This is specially clear from the recitals in Appendix-III, which indicates that the authorized person, “who is presently employed with us/ the Lead Member of our Joint Venture and holding the position of, as our true and lawful attorney”. Hence, it is clear that it is the Joint Venture which has to execute the Power of Attorney for submission of the bid; who has to be either an employee of the Joint Venture or it could also be a person associated with the



Lead Member. Annexure-P/7 is issued by BBCPL, authorizing one of its Directors, which is not in the format as required under Appendix-III of the RFP.

6. One other defect we noticed is that, while the authorization of the Lead Member was on 23.08.2024, Appendix-III is issued one day prior on 22.08.2024. The authorization to represent the Joint Venture, if at all could be issued by the Lead Member, it could have been issued only after authorization of the Lead Member.

7. For all the above reasons, we find absolutely no reason to entertain the writ petition and reject the same *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	19.12.2024
Transmission Date	

