

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1791 of 2024

PKS Infracon Private Limited a company registered under the Companies Act, having its registered office at Ground Floor, Ganpati Colony, Tar Bangla, Dehri On Sone, Rohtas, Bihar, 821307, through its Managing Director, Pawan Kumar Singh, aged about 45 year (male), Son of Bindhachal Singh, Resident of Tar Bangla, P.O. and P.S. Dehri, Rohtas Bihar, 821307.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary cum Mines Commissioner, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The District Magistrate, Rohtas.
5. The District Mining Officer, Rohtas.
6. Bihar State Mining Corporation Limited through its General Manager, Room No. 164, Vikas Bhawan, (New Secretariat), Bailey Road, Patna 800015.
7. The Administrative Officer, Bihar State Mining Corporation Limited, Room No. 164, Vikas Bhawan, (New Secretariat), Bailey Road, Patna - 800015.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi
For the State		Mr. Sumant Kumar Singh AC to GA 2

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

5 29-10-2024 Heard the parties.

2. While referring the judgment dated 03.11.2023 passed in ***CWJC No.7519 of 2022 (M/s Sawstik Traders Vs. State of Bihar and others)***, the learned counsel for the petitioner has submitted that it has been decided by the coordinate Bench of this Court that if a person qualifies in



technical bid but he fails to participate in the financial bid, his earnest money should be returned. He further submits that he has not been found guilty of committing any kind of irregularity or corrupt practices, as such his earnest money deposit (EMD) cannot be forfeited under Clause 17 of the NIT (Notice Inviting Tender).

3. The learned counsel for the State, though opposes, but fairly admits that similar was the fact in the case of *M/s Swastik Traders*.

4. Considering the above-mentioned facts and circumstances, respondent nos. 6 and 7 are directed to refund the earnest money deposit (EMD) to the petitioner within a period of four weeks from today.

5. With the direction/observation aforesaid, the writ application stands disposed of.

(Nawneet Kumar Pandey, J)

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