

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2376 of 2025

M/s Ram Kripal Singh Construction Pvt. Ltd., having its office at 702, 7th Floor, Panchwati Plaza, Kutchery Road, Ranchi- 834001 (Jharkhand) through its Authorized Signatory namely Saket Suman, aged about 36 years (Male), son of Sri Bhagwan Sharma, Resident of Village and P.O.- Chechaul, P.S.- Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief -cum- Additional Commissioner -cum- Special Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Chief Engineer (Patna), Building Construction Department, Government of Bihar, Patna.
4. The Superintending Engineer, Construction Circle, Building Construction Department, Patna.
5. The Executive Engineer, Construction Division -3, Building Construction Department, Patna.
6. M/s Dipanshu Promoter and Builder Pvt. Ltd. 2B, Vatika Apartment, Line Tank Road, P.O. GPO, P.S. Kotwali, District Ranchi - -834001, through its Authorised signatory namely Vikash Kumr Sanehi, aged about 47 years, Son of Shyam Babu Sanehi, at Vatika Apartment, Line Tank Road, P.O. GPO, P.S. Kotwali, District - Ranchi, Jharkhand.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Akshansh Ankit, Advocate Mr. Anil Kumar Tiwari, Advocate
For the Respondent/State:		Mr. P.K. Shahi, Advocate General Mr. Vikash Kumar, Advocate Mr. Shankar Kumar Choudhary, Advocate Mr. Shantanu Kumar Singh, Advocate Mr. Aamit Hayat, Advocate Mr. Satish Kumar, Advocate
For Respondent No. 6	:	Mr. Jitendra Singh, Sr. Advocate Mr. Yash Singh, Advocate Mr. Ishan Singh, Advocate Mr. Tej Pratap Singh, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)



Date : 02-09-2025

In the instant writ petition, petitioner has sought for the following reliefs :

“a) To set aside the decision by the Departmental Tender Evaluation Committee of the Building Construction Department, Government of Bihar, Patna in its Meeting dated 31.01.2025 [Annexure P8 to the writ application] to the extent the technical bid of the Petitioner with respect to NIT bearing S.B.D. (EPC) E-tender No. 03, Cons -3/2024-25 was rejected, in a most mechanical and arbitrary manner without following the principles of natural justice.

b) For a direction upon the Respondents to accept the technical bid of the Petitioner with respect to NIT bearing S.B.D. (EPC) E-tender No. 03, Cons-3/2024-25 and consider the financial bid of the Petitioner forthwith with all consequential benefits.

c) For a further direction upon the Respondents to abstain from allotting work with respect to NIT bearing S.B.D. (EPC) E-tender No. 03, Cons-3/2024-25 during the pendency of the instant writ application.

d) To pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand.



e) To set aside the decision by the Departmental Tender Committee of the Building Construction Department, Government of Bihar, Patna in its Meeting dated 10.02.2025 as contained in Memo No. 417 dated 10.02.2025 whereby and whereunder financial bid of one M/s Dipanshu Promoter and Builder Pvt. Ltd. With respect to S.B.D. (EPC) E-tender No. 03, Cons – 3/2024-25 has been accepted after illegally and arbitrarily rejecting the technical bid of the Petitioner.

f) For a further direction upon the Respondents to abstain from allotting work with respect to S.B.D. (EPC) E-tender No. 03, Cons-3/2024-25 or entering into any agreement with respect to the said work during the pendency of the instant writ application.”

2. On 16.12.2024, Respondent No. 5 issued a Re-tender Inviting Notice (NIT) bearing S.B.D. (EPC) E-tender No. 03, Cons-3/2024-25 for construction of Rajendra Bhawan, Governor Secretariat and Guest House in the campus of Raj Bhawan, Patna in which petitioner participated .On 03.01.2025, one of the prospective bidders, BPC Infraproject Pvt. Ltd. (Respondent no. 6) objected in the pre-bid meeting to the eligibility condition like prior experience of construction of guest house and basement, but the respondents rejected the objection on the same day without assigning any reason. Thereafter, on



17.01.2025, the Technical Bid Evaluation Committee considered the bids and found the petitioner's technical bid to be in order, adjudging it responsive and competent to execute the work. However, on 31.01.2025, the Departmental Tender Evaluation Committee, re-evaluated the petitioner's technical bid and declared it non-responsive, while deciding to consider the financial bid of the sole remaining responsive bidder, M/s Dipanshu Promoter and Builder Pvt. Ltd (Respondent No.6). Hence The petitioner has filed this present writ petition .

3. Tentatively, the petitioner was successful in technical bid. Before it was finalized, official respondents are in receipt of certain objections / complaints from the bidders as well as some politician on the score that petitioner does not fulfill certain requisite qualification prescribed for the construction of guest house. Learned counsel for the petitioner vehemently contended that impugned decision has been taken behind the back of the petitioner and without providing opportunity and after furnishing complaints / objections. The concerned respondent has acted on the political person's objection, therefore, extraneous material has been taken into consideration for the purpose of disqualifying the petitioner. It is further submitted that in the light of the facts and circumstances, the petitioner is entitled to have the minimum



requirement of notice and submission of his reply and, thereafter, the concerned authority has to proceed after due consideration of the petitioner's objection. On this count, the impugned action of the respondents are liable to be set aside. Insofar as violation of the principle of natural justice, learned senior counsel *Mr. Rajendra Narayan* has cited the following decisions of the Hon'ble Supreme Court :

(i) *Jagdish Mandal vs. State of Orissa* reported in (2007) 14 SCC 517.

(ii) *Tata Cellular vs. Union of India* reported in (1994) 6 SCC 651.

(iii) *Ram and Shyam Co. vs. State of Haryana* reported in (1985) 3 SCC 267.

(iv) *State of Uttar Pradesh vs. Sudhir Kumar Singh* reported in (2021) 19 SCC 706.

4. *Per contra*, learned Advocate General submitted that tentatively decision was in favour of the petitioner and on receipt of objections not only from the political person and so also bidders to the extent that petitioner does not fulfill requisite qualification for construction of the guest house. In other words, for construction of guest house, experience is mandatory. Whatever the certificate furnished by the petitioner insofar as experience is



concerned, it was transmitted to the author of the work experience certificate and the author has furnished reply and also material to the extent that the petitioner has not executed construction of guest house *in toto* and, on the other hand, he has executed certain residential building / flats which was converted into guest house. In other words, the petitioner has not constructed any guest house so as to fulfill the requisite experience insofar as construction of the guest house as stipulated in the subject tender. Having regard to the fact that it would go to the root of the matter to the extent that the petitioner is not eligible on the issue of eligibility like experience certificate for construction of guest house, question of providing principle of natural justice like issuance of show cause notice and seeking objection from the petitioner is immaterial. In this regard, the Hon'ble Supreme Court in the case of ***Competition Commissoin of India vs. Steel Authority of Inida Limited and Another*** reported in (2010) 10 SCC 744 has held that principle of natural justice cannot be straightway applied to each and every case, it all depends on the factual aspect of the matter. In paragraph No. 68 of the ***Competition Commissoin of India*** decision cited *supra*, it is held as under :

“68. Generally, we can classify compliance or otherwise, with these principles mainly under three categories. First, where application of principles of



natural justice is excluded by specific legislation; second, where the law contemplates strict compliance with the provisions of the principles of natural justice and default in compliance therewith can result in vitiating not only the orders but even the proceedings taken against the delinquent; and third, where the law requires compliance with these principles of natural justice, but an irresistible conclusion is drawn by the competent court or forum that no prejudice has been caused to the delinquent and the non-compliance is with regard to an action of directory nature. The cases may fall in any of these categories and therefore, the court has to examine the facts of each case in light of the Act or the rules and regulations in force in relation to such a case. It is not only difficult but also not advisable to spell out any straitjacket formula which can be applied universally to all cases without variation.”

5. It is submitted that even assuming that the petitioner is given the notice, in that event he cannot improve the work experience certificate read with the materials furnished by the authority of the certificate to the extent that petitioner has not constructed the guest house independently, on the other hand, he had constructed residential building / flats and not guest house.

6. Learned senior counsel appearing on behalf of respondent No. 6 submitted that petitioner had produced fake completion certificate of the guest house, therefore, he is not entitled. The same cannot be taken note of for the reasons that the



author of the certificate has never said that it is a fake document, on the other hand he has submitted to the extent that the petitioner has not constructed guest house independently and he has constructed residential building / flats which has been converted into guest house.

7. Heard learned counsels for the respective parties.

8. Core issue involved in the present *lis* is whether petitioner is entitled to have the benefit of principles of natural justice. Perusal of the records, it is crystal clear that issue involved in the present case is whether petitioner's work experience for the purpose of construction of guest house is in terms of specification of the tender or not ? The tender notification stipulates that for construction of guest house, experience is required. On the other hand, the petitioner had furnished guest house construction certificate and after due examination by the official respondent while referring to the author of the experience certificate. It was found that the petitioner never constructed guest house, on the other hand, he had constructed residential building / flats, which was later converted into guest house. The petitioner does not fulfill the requisite experience insofar as construction of guest house independently.



9. Having regard to these facts and circumstances, even assuming that the official respondent issued a show cause notice asking the petitioner to submit his explanation, he cannot improve or modify the certificate issued by the author of the document. Insofar as political person filing objection is concerned, the official respondent has not only taken the objection of the political person and so also one of the bidder's objection to the extent that the petitioner does not fulfill the experience certificate insofar as construction of the guest house independently, therefore, the contention of the petitioner that extraneous material or due to political pressure, the petitioner has been ousted from the present tender is incorrect.

10. Learned counsel for the petitioner cited four judgments (cited *supra*) which do not assist him on the issue of principle of natural justice for the reasons that even assuming that the petitioner is provided show cause notice, he cannot improve the work experience certificate to the extent of construction of guest house, therefore, the principle of natural justice cannot be straightway applicable to the case in hand. It depends on each and every case, therefore, the petitioner has not made out a case.

11. At this stage, we have noticed that the work has been awarded in favour of the sixth respondent on 10.02.2025 and



we are in the month of September, 2025. The tenure of the work is eighteen months. Now more than six months have lapsed, therefore, it is not appropriate to interfere with the impugned action of the respondents. Hence, present writ petition stands dismissed.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	04.09.2025
Transmission Date	

