

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9435 of 2024

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Brajesh Mishra son of Gopal Mishra, Editor of Keval Sach, Resident of House No. 28/14, Road No.- 14B, East Ashok Nagar, Lohia Nagar, Sampatchak, PS - Kankarbagh, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal and Fisheries Resources Department, Bihar, Patna.
2. The Principal Secretary, Animal and Fisheries Resources Department, Bihar, Patna.
3. The Project Director, Bihar Livestock Development Agency, Patna.
4. The State Transport Commissioner, Transport Department, Government of Bihar, Patna.
5. The Director, General of Vigilance Investigation Bureau, 6, Circular Road, Bihar, Patna.
6. The Additional Director General of Police, Economic Offences Unit, Bihar, Patna.
7. Maurya Motors Pvt. Ltd., having its registered office at Plot No. C-1, Industrial Area, Patliputra, Patna, Bihar 800013 through its Director Mohan Himatsingka.
8. Shankar Equipments Ltd., having its registered office at Plot No. C-1, Industrial Area, Patliputra, Patna, Bihar 800013 through its Director Mohan Himatsingka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Sr. Advocate Mr.Nirbhay Prashant, Advocate Mr. Pushkar Bhardwaj, Advocate Miss. Shreyashi Raj, Advocate
For the Respondent/s	:	Mr.P.K.Shahi, A.G.
For the Vigilance	:	Mr. Anil Singh, Law Officer.
For the EOU	:	Mr. V.N.P.Sinha, Sr. Advocate Mr. Vijay Anand, Advocate

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

Date : 24-01-2025

Heard Mr. Abhinav Srivastava, the learned



Senior Advocate for the petitioner and the learned Advocate General for the State.

2. This Public Interest Litigation (PIL) was initiated on the application made by the petitioner alleging highly illegal, wrongful and arbitrary conduct of Respondent 1st Set, the officers of the Government in Animal and Fisheries Resources Department, in allotting work order against Bid No. GeM/2024/B/4573396 (Annexure-P/1), dated 27.02.2024, for supply of Customised Mobile Veterinary Vehicles to one favoured person.

3. The contention on behalf of the petitioner is that even though the supplier selected by the Government had tainted background, who had been debarred by the Patna Municipal Corporation (*for brevity 'PMC'*), he was considered for the same. The further allegation is that the affidavit, which a bidder/supplier was required to fill up, indicated that he had to clearly specify whether he was debarred by any organization in the past.

4. In the present case, the supplier had sworn a false affidavit that he had never been debarred in any one of the commercial transactions between the Government Body and him.

5. The other reason to suspect that undue



favour was being accorded to a particular supplier, was the difference in the price of such vehicles obtained in two different trances.

6. With respect to the first charge, the learned Advocate General has pointed out that the procurement process was carried out by the Bihar Livestock Department Agency, which is a society under the Department of Animal and Fisheries Resources. There was a consistent demand for door-step delivery of Veterinary Health Care Services to Animals from the farmers and taking into account such legitimate demand, the Central and the State Governments took a decision in that regard for providing door-step veterinary services through Mobile Veterinary Units (*in short the 'MVUs'*). The Government of Bihar had prioritized this scheme under the 'Seven Guarantees' promised by the Government. It was in this connection, that taking into account 534 Blocks in the entire State of Bihar, the Central Government chose to provide funds for 307 MVUs. The requirement fell short by 227 MVUs to cover all the Blocks in the State of Bihar and for that, the State decided to fund such MVUs.

7. The procurement process was carried out, as noted by the Bihar Livestock Development Agency.

8. In the bid floated for the purchase of such



MVUs on Central Government funding, there was specification for vehicles with a space of keeping generators, whereas the bid floated for purchase of MVUs on State fund, there was a necessity of the vehicles being supplied with generators. Precisely for this reason, the purchase prices of the MVUs in two different phases were found to be different. The difference was to the tune of Rupees two and half lacs roughly for each vehicle.

9. The learned Senior Advocate for the petitioner submitted that even it be accepted without a demur, the price difference is not explainable.

10. The afore-noted argument was rebutted by the State that such pricing was accepted by the procurer and all the transactions were made on the GeM Portal. The work orders was given to the successful bidder as per the GeM Portal prevalent practice. It is the tender inviting authority which can only check and evaluate the documents of the bidders participating in the bid.

11. The State contends that this is an answer to both the charges, namely, work order being given to an agency which was debarred by the PMC as also the variation in the price of the vehicles which were purchased in two different phases against Central and State fundings respectively.



12. The learned Advocate General has informed this Court that all the vehicles for which orders were placed have been supplied and those have been deployed in different Blocks and no complaint whatsoever has been reported with respect to anyone of those vehicles.

13. It was also contended on behalf of the State that the Government agency did not know about the supplier having been blacklisted by the PMC. However, as an alternative to this argument, it was also urged that assuming that the fact would have been known, the debarment would not have come in the way of the procurer having chosen such concessionaire because the debarment was only with respect to any work with the PMC and no other body and even otherwise, the effort of the Government was to procure the vehicles of the specified specifications customised in true sense so as to serve the purpose of bringing door-step facility of veterinary services to the farmers. However, after having come to know that a misleading affidavit was filed along with the bid papers by one of the suppliers, a show-cause notice has been issued to him.

14. In the present facts and circumstances, we find that there would be no good purpose in keeping this litigation pending, especially when all the vehicles have



been supplied and they have been deployed to the respective Blocks and for which no complaint has ever been raised up till now.

15. However, the State has to be careful in future in awarding contracts.

16. It would be expected that the show-cause notice issued to the erring supplier would be taken to its logical conclusion within a period of three months with necessary sequel action so that it is not understood as if merely because the terms of the contract have been fulfilled, the responsibility of the State is over and that such filing of false affidavit, which could result in filing of criminal case as well, is brushed aside.

17. With the afore-noted observations, the petition is consigned.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sujit/Praveen

AFR/NAFR	NAFR
CAV DATE	CA
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