

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13561 of 2025

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Alok Kumar, Son of Shri Binay Kumar Sinha, Resident of Mohalla- Vijay Nagar, Hanuman Nagar, Kankarbagh, House No. F/40, P.O- Bahadurpur, P.S.- Patrakar Nagar, District- Patna-20.

... .. Petitioner.

Versus

1. The State of Bihar through Principal Secretary, Minor Water Resources Department, Vikash Bhawan, Patna-15.
2. The Principal Secretary, Minor Water Resources Department, Vikash Bhawan, Patna-15.
3. The Engineer-in-Chief, Minor Water Resources Department, Vikash Bhawan, Patna-15.
4. The Chief Engineer, Minor Water Resources Department, Jal Bhawan, Air Port Road, Patna-14.
5. The Superintending Engineer, Minor Water Resources Department, Minor Irrigation Circle, Patna.
6. The Superintending Engineer-cum-Technical Secretary, Minor Water Resources Department, Jal Bhawan, Air Port Road, Patna-14.
7. The Executive Engineer, Minor Water Resources Department, Minor Irrigation Division, Patna.
8. The Additional Chief Secretary, Department of Vigilance, 4th Floor, Suchana Bhawan, Opposite New Secretariat, Patna-15.
9. The Director General (D.G), Vigilance Investigation Bureau, Patna.
10. Bihar Rajya Pul Nirman Nigam Limited, through the Senior Project Engineer, Works Division, Ara (Bhojpur).
11. The Senior Project Engineer, Bihar Rajya Pul Nirman Nigam Limited Works Division, Ara (Bhojpur).

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. Rama Kant Sharma, Senior Advocate. Mr. Manish Sahay, Advocate. Mr. Anil Kumar Sinha, Advocate. Mr. Siddharth Aditya, Advocate. Mr. Amrit Kirti, Advocate. Mr. Aman Raj, Advocate.
For the State	:	Mr. Vikas Kumar, SC-11.
For BRPNNL	:	Mr. P.K. Shahi, Senior Advocate. Mr. Vikas Kumar, Advocate.

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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 prayed for the



following relief(s):

“(I) For issuance of an appropriate writ including a writ in the nature of writ of “Certiorari” quashing the orders/decisions dated 29.05.2025 read with 24.01.2025 of the Tender Committee communicated by the respondent Chief Engineer vide Memo Nos.1846 & 140 dated 30.05.2025 and 24.01.2025 respectively, as contained in **Annexure-P-7 and Annexure-P-4**, intimating the decision of rejection of tender of the petitioner relating to **“Construction of Check Dam at Ghorhua Village in Morhar River and Rennovation Work of Pyne”** in the most arbitrary and having ulterior motive against the petitioner.

(II) For issuance of an appropriate writ including a writ in the nature of writ of Mandamus commanding the respondents to decide the said tender afresh in accordance with law mainly in terms of Clause **15** of Instructions to Bidders (ITB) of Standard Bidding Documents (in short SBD).

(III) For issuance of an appropriate writ including a writ in the nature of writ of “Mandamus” directing the concerned respondent (i.e. Respondent No.8 & 9) to make an inquiry and take appropriate steps against erring officials who had illegally decided said tender after expiry of bid validity because no consent was taken prior expiry of bid validity period.

(IV) For restraining the concerned



respondent to create any third party right relating to tender in question.

(V) For issuance of any other appropriate writ (s)/Order(s), direction(s) as may be deemed fit and proper in the facts and circumstances of the case.”

2. Petitioner is one of the bidder. His application or eligibility criteria has been taken note of and rejected with reference to the fact that the petitioner did not fulfill Clause 4.7 of the SBD. It is necessary to produce Clause 4.7 of the SBD. It reads as under:

“4.7 Bidders who meet the minimum qualification criteria will be qualified only if their available bid capacity is more than the total bid value. The available bid capacity will be calculated as under:

Assessed Available Bid capacity= (A x N x 3-B)

Where

A= Maximum value of civil engineering works executed in any one year during the last five years (updated to the price level of the year indicated in Appendix) taking into account the completed as well works in progress.

N= Number of years prescribed for completion of the works for which bids are invited.

B= Value (updated to the price level of the year indicated in Appendix) of existing



commitments and on-going works to be completed during the next.....years (period of completion of the works for which bids are invited)

Note: The statements showing the value of existing commitments and on-going works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by the Engineer in charge, not below the rank of an Executive Engineer or equivalent.”

The petitioner failed to furnish aforementioned information as on 22.12.2024.

3. Further, it is to be noted that the last date of submission of application is 22.12.2024. The petitioner was required to fulfill the aforementioned 4.7 as on 22.12.2024 for the purpose of considering his eligibility at the inception. Thereafter, insofar as bid opening and evaluation, bidders were provided opportunity to file their objection. In support of objection, he has filed material information to fulfill 4.7 beyond 22.12.2024, i.e., on 25.01.2025 along with covering letter on 26.01.2025. The petitioner's objection read with the aforementioned material insofar as fulfilling the paragraph-4.7 of the SBD cannot be taken into consideration for the reasons



that it amounts to extending the last date for submission of bid from 22.12.2024 to 26.01.2025. In other words, petitioner fails to fulfill the eligibility criteria as on 22.12.2024 insofar as paragraph-4.7. The same cannot be rectified subsequent to 22.12.2024. Therefore, the petitioner has not made out a case so as to interfere with the impugned action of the respondents.

4. At this stage, learned counsel for the petitioner submitted that the official respondents have provided opportunity of submission of objection. The objection invited is not with reference to eligibility criteria as on 22.12.2024, the date on which last date for submission of application for bid was invited. Therefore, in the inception, petitioner failed to fulfill the eligibility criteria, in particularly, in paragraph-4.7 of SBD. Hence, the petitioner has not made out a case.

5. Accordingly, Writ petition dismissed.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2025.
Transmission Date	NA

