IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16264 of 2024

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Vijay Kumar Jha son of Kameshwar Jha, resident of Koshi Road, Nagar Parishad, Ward No. 12 Supaul, P.S.- Supaul, District- Supaul.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Rural Works (R.W.D.), Government of Bihar, Patna.
2. The Engineer-in-Chief, Department of Rural Works (R.W.D.), Government of Bihar, Patna.
3. The Chief Engineer-4 Purnia Department of Rural Works (R.W.D.), Government of Bihar, Patna.
4. The Superintending Engineer, Department of Rural Works (R.W.D.), Works Circle, Madhepura.
5. The Project Director, Mukhyamantri Gramin Sarak Yojna (MMGSY), Patna.
6. The Technical Secretary to Engineer-in-Chief, Department of Rural Works (R.W.D.), Patna.
7. The Executive Engineer, Rural Works Department, Works Division, Supaul.
8. The Executive Engineer, Rural Works Department, Works Division, Triveniganj, District Supaul.
9. The Executive Engineer, Rural Works Department, Works Division, Birpur, District Supaul.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Adv.
For the Respondent/s	:	Mr. Government Pleader (05)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 24-03-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following relief(s):-

> *"That the petitioner above named crave for indulgence of this Hon'ble Court by way of issuance of any appropriate order/orders, direction/direction, writ/writs, commanding and directing the respondents concerned to accept and allow the bids submitted by the petitioner declaring it as qualified for different tender IDs with regard to construction of roads under Mukhyamantri Gramin Sarak Yojana (MMGSY only hereinafter) Under NDB assisted Bihar, rural roads projects in which the*

petitioner being a government contractor with long experience and all requisite eligibility has submitted tenders under different tender IDs, but the concerned respondent have illegally declared tenders of the petitioner as disqualified on the same ground of mismatch of annual turnover shown in the audit report and annual turnover in UDIN of petitioner available online which is very much illegal false and misleading as the petitioner has very much shown correct annual turnover in the audit reports submitted with tender paper while in the UDIN generated by the CA of the petitioner has due to inadvertence and clerical mistake shown annual turnover for financial year 2019-2020 as D/92.77475 lakhs which, although soon been stood rectified by the CA as per rules and correct annual turnover of ₹597.38594 lakhs has been shown in UDIN also and in this regards application/representation has also been filed by the petitioner with request to review of bids of the petitioner in the light of updated UDIN, but in a very arbitrary and prejudice manner, the bids of the petitioner stood declared as disqualified Vide meetings of Departmental technical bid evaluation committee dated 15.09.2024 which has got no legal leg to stand upon. Any other relief or relief, for which the petitioner is found entitled to in the fact and circumstances of this case."

3. It is the case of the petitioner that pursuant to the tender issued by the respondent authority under the Mukhya Gramin Sadak Yojana (MGSY), the petitioner has participated in six tenders under different IDs. However, the petitioner’s tenders were disqualified on the ground that the turn over of the petitioner for the year 2019-20 as reflected in the audit report uploaded by the builder does not match with the annual turn over shown online.

4. Learned counsel appearing on behalf of the petitioner has stated that except the above reason, the petitioner was qualified in every other manner. Learned counsel has further stated that for the financial year 2019-20, the Chartered Accountant had already rectified the mistake in the calculation and submitted the corrected figures and generated afresh UDIN. Learned counsel has stated that the Chartered Accountant by mistake had assessed the turn over for the year 2019-20 as Rs. 192.77475 lakhs though the subsequent corrected annual turn over is shown as Rs. 597.38594 lakhs. The petitioner has submitted application/ representation seeking review of the updated turnover, however, the Technical Bid Evaluation Committee has disqualified the petitioner on 15.09.2024. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned disqualification and direct the authorities to take into consideration the corrected annual turn over for evaluating the bid of the petitioner.

5. In the counter-affidavit filed by the respondents, the authorities while accepting that the petitioner has participated in six tenders under various IDs have stated that the tenders submitted by the petitioner was disqualified as the audit report for the year 2019-20 uploaded by the petitioner does not match with the annual turn over shown online. That as per Clause 4.7(i) of ITB (SBD), the tenders submitted by the petitioner was disqualified. Though the petitioner has filed his objection/

representation bringing it notice of the authority about the discrepancy in the annual turn over for the year 2019-20, the Technical Bid Evaluation Committee reviewed the same in its meeting held on 15.09.2024 and rejected the same on the ground that the corrected UDIN cannot be considered for the evaluation of the bidder after the last date of tender. Further, it is stated that as per the Clause 21.3 of the Standard Bidding Documents for MMGSY (AWSESH) "No bid shall be modified or withdrawn after the deadline of submission of bids". Further, it is stated that the respondents had already entered into the agreement with the successful bidders and letter of acceptance and work order were also issued by the competent authority.

6. In the reply filed by the petitioner except stating that the cases of other bidders where discrepancies were found were given an opportunity of reconsideration, nothing has been said denying the other averments made in the counter-affidavit.

7. The only issue involved in the present writ petition is whether the case of the petitioner ought to have been reconsidered in view of the representation made by him.

8. Admittedly, in this case, there is discrepancy in the offline annual turn over for the year 2019-20 and the online turn over reflected in the UDIN. Whatever may be the cause, once the petitioner submits a bid and the last date is over. Having regard to the Clause 21.3 of the Standard Bidding Documents for MMGSY (AWSESH) which reads as; *"No bid shall be modified or withdrawn after the deadline of submission of bids",* the subsequent documents or clarifications cannot be taken into consideration.

9. Even though in the counter-affidavit, a specific stand has been taken that the respondents have already entered into a contract and issued the work order in favour of the successful bidders, the petitioner has not bothered to implead them nor challenge the work contract issued in their favour.

10. Having regard to the above mentioned facts and circumstances, this Court does not find any merit in the present writ petition which warrants any interference by this Court.

11. The writ petition is accordingly, dismissed.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2025.
Transmission Date	NA