

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16737 of 2024

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M/S Trijal Constructions Pvt. Ltd. having registered office at Flat No. 202, Satya Ganga Apartment, P.S.-Shastri Nagar, Shivpuri, Patna-800023, through its Director Pratik Kumar.

... .. Petitioner/s

Versus

1. Union of India through Ministry of Communications, Department of Telecommunications, through Telecom Secretary, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001.
2. Ministry of Communications, Department of Telecommunications, through Telecom Secretary, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001.
3. Bharat Sanchar Nigam Limited (BSNL) through its General Manager, 2nd Floor, ETR Building, Sanchar Parisar, Buddha Marg, Patna-800001.
4. Bharat Sanchar Nigam Limited (BSNL) through its Chief General Manager, Core Network Transmission (East), Telephone Bhavan, 7th Floor, 34 BBD Bag, Kolkata-700001.
5. Government E-Marketplace (Gem Portal) through its Chief Executive Officer, Office at Jeevan Tara Building, 5-Sansad Marg, Near Patel Marg, New Delhi.
6. M/s Deepak Goyal, 271, Y-1, K, Shashi Satish Vila, 270 Y1 K block Yashoda Nagar, Kanpur Nagar, Kanpur Uttar Pradesh 208011.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16833 of 2024

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... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 16737 of 2024)

For the Petitioner/s : Mr. Apurv Harsh, Advocate
Mr. Hritik Anand, Advocate
Mr. Manu Tripurari, Advocate
Mr. Raghu Raj Pratap, Advocate
For the UOI : Mr. Manoj Kr. Singh, CGC
For BSNL : Mr. Harendra Prasad Singh, Advocate
For Respondent No. 6 : Mr. Rajendra Prasad, Advocate
Mr. Awadhesh Kr. Singh, Advocate
Ms. Shyama Rani, Advocate

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For the Petitioner/s : Mr. Apurv Harsh, Advocate
Mr. Hritik Anand, Advocate
Mr. Manu Tripurari, Advocate
Mr. Raghu Raj Pratap, Advocate
For the UOI : Mr. Jawed Gaffar Khan, Advocate
For BSNL : Mr. Harendra Prasad Singh, Advocate
For Respondent No. 6 : Mr. Rajendra Prasad, Advocate
Mr. Awadhesh Kr. Singh, Advocate
Ms. Shyama Rani, Advocate

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

Date : 10-04-2025

We have heard Mr. Apurv Harsh, the learned Advocate for the petitioner in both the matters and Mr. Harendra Prasad Singh, the learned Advocate for respondents No. 3 to 5. Mr. Rajendra Prasad, the learned Advocate has appeared on behalf of respondent No. 6 in



whose favour the contract has been awarded. The Union of India is represented by Mr. Jawed Gaffar Khan and Mr. Manoj Kumar Singh, Advocates.

2. The BSNL had floated a tender for laying of pipelines for cable with its projected/ estimated bid value. The NIT contained the conditions of eligibility and qualifications of the bidder. One of such conditions for the eligibility for any bidder was a solvency certificate, not older than the date of issue of the NIT for 25% of the tender cost or Rs. 5 lacs, whichever was higher. The petitioner/ company participated in the bid with its stake for two of the works under the tender. The documents with respect to solvency had to be uploaded along with the bid document.

3. The contention of the petitioner is that along with the bid document, the solvency certificate as required, was also uploaded.

4. We have been shown the nature of the certificate said to have been uploaded along with the bid



which is a certification by the HDFC bank that the petitioner owns an account where Rs. 17 lacs is parked. This figure covers the solvency required for both the works for which the petitioner had filed his bids.

5. Both the bids of the petitioner were rejected on the sole ground that the eligibility criteria specified in the bid clause with respect to work order and undertaking of the bidder's financial undertaking was not submitted at the time of submission of the original bid.

6. The specific contention of respondents No. 3 to 5 is that such solvency certificate was never uploaded by the petitioner along with the bid documents and hence the petitioner was ousted from the zone of consideration.

7. In support of the contention that the required document/ solvency certificate was uploaded along with the bids, the petitioner has brought on record a copy of the solvency certificate, issued by the HDFC Bank which is digitally signed by one of its representatives.

8. The learned counsel appearing for



respondents No. 3 to 5 disputes that this document was filed along with the bid documents.

9. This Court does not have any proof of the fact that the required solvency certificate was filed along with the bids. What this Court has but taken notice of, is that after the petitioner was ousted from the zone of consideration, the work was awarded to respondent No. 6 and pursuant to such an Award, more than 70% of the work has already been completed.

10. It has also been argued on behalf of the petitioner that from the counter affidavit filed on behalf of respondents No. 3 to 5, it would clearly appear that the statement made by the respondents with respect to the petitioner not having filed the necessary solvency certificate along with the bid document, is not correct. Though a statement has been made in the counter affidavit that it was never uploaded along with the bid documents, but in the next breath, questions have been raised regarding the uploaded document, viz., certificate



of solvency by the HDFC Bank, being the document which was required to be filed.

11. In this context, the learned counsel for the petitioner has again drawn the attention of this Court to Clause 11 of the NIT which only talks of the solvency certificate of the bidders to the extent of 25% of the tender value or Rs. 5 lacs whichever is higher.

12. The respondents have also taken a plea that a certificate by the Bank regarding the money parked in the account of the bidder only discloses his financial status, which may not *stricto sensu* be a solvency certificate because for demonstrating the solvency of a party, a document showing that he is not bankrupt or that his company has not or is not undergoing any liquidation proceeding or whether any Court Receiver has been appointed and such like information.

13. If that be the case, then perhaps Clause 11 in the NIT is being understood in a different way.

14. However, taking the fact situation in



account, that the affidavit of respondents No. 3 to 5 clearly state that the solvency certificate, even the certificate by the HDFC Bank showing that the petitioner’s account contains Rs. 17 lacs, was not uploaded along with the bid documents on the last date, as also the fact that respondent No. 6 has already been awarded the contract and more than 70% of the work has been finished by them, we do not wish to interfere in the matter.

15. For the aforementioned reasons, both the petitions are dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Rajesh/Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2025
Transmission Date	NA

