

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18078 of 2024

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Mithlesh Kumar Singh S/o Ashok Singh (Partner- Maa Bhagwati Construction-1), R/o Vill- Bara Telpa, New Batti, P.O.- Chapra, P.S.- Town (Chapra), District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal cum Additional Chief Secretary, Rural Works Department, Govt. of Bihar, Patna.
2. The Engineer-in Chief, Rural Works Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Rural Works Department, Govt. of Bihar, Patna.
4. The Superintending Engineer, Work Circle Chapra, Rural Works Department, Govt. of Bihar, Patna.
5. The Executive Engineer, Work Division Chapra, Rural Works Department, Govt. of Bihar, Patna.
6. The Assistant Engineer, Work Division Chapra, Rural Works Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh, Advocate
		Mr. Praveen Ranjan, Advocate
For the Respondent/s	:	Mr. Ajay, GA- 05

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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 : 21-01-2025

We have heard Mr. Sanjeev Kumar Singh assisted by Mr. Praveen Ranjan, the learned Advocates for the petitioner and Mr. Ajay, the learned Government Advocate for the State.

2. The petitioner was not found to be



technically responsive for his not having met the stipulation of having a minimum annual financial turn over of 60% of amount put to bid (as certified by the Chartered Accountant) and at least 50% of which is from civil engineering construction works.

3. One of the conditions in the SBD is that for qualifying for award of contract, each bidder should have, in his last five years, which have been specified as five years immediately preceding the year in which the bids are invited and year means financial year, has achieved such minimum annual turn over. The turn-over would be indexed at the rate of 8% per year.

4. The indexing of the turn-over of the petitioner was for 2021-22 and 2022-23.

5. The petitioner contends that year 2023-2024 also had to be included for indexing and for calculating the annual turn over and in that case, the bid of the petitioner would have become technically responsive to the terms of the bid.



6. Opposing the afore-noted contention, the learned Government Advocate has pointed out that Clause 4.4 (A) of the SBD clearly mentions that every bidder should have in the last five years, which five years would be counted from the preceeding year in which the bids are invited, has to have the minimum turn over annually.

7. In the present case, the tender was invited on 19.12.2023.

8. In that view of the matter, there could be no consideration or indexing of the turn-over in 2023-24 as the turn-over has to be of five years immediately preceeding the year in which the tender is floated.

9. The terms of the SBD is absolutely clear, leaving no scope of any other interpretation.

10. There is no dispute with respect to the fact that the petitioner did not muster the necessary annual turn-over on calculation after indexing it at 8%.

11. The claim of the petitioner rests only on a



contingent expectation that the indexing would be done for him for the year 2023-24, which is not possible in terms of the clear stipulation in the SBD.

12. Thus, no case has been made out by the petitioner for any interference.

13. The writ petition stands dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

manoj/praveen-II

AFR/NAFR	NAFR
CAV DATE	NA
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