

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18973 of 2024

=====

Satyendra Prasad @ Satyendra Kumar Son of Dayanidhi Prasad Resident of
village- Mirdahachak, Poari, Nalanda, P.S.- Harnaut, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Government of Bihar, Bihar Sharif
4. The Superintending Engineer, Irrigation Circle, Nalanda, Bihar Sharif
5. The Executive Engineer, Irrigation Division, Jahanabad

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate

Mr. Gaurav Prakash, Advocate

For the Respondent/s : Mr. P.K.Shahi, Advocate General

=====

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

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 05-05-2025

Heard Mr. Rajendra Narain, the learned Senior
Advocate for the petitioner and Mr. P.K. Shahi, the
learned Advocate General for the respondents/State.

2. The challenge in the present petition is to
the decision of the Executive Engineer, Irrigation Division,



Jehanabad whereby the entire short term tender for auction of clapped out goods and machines has been withdrawn for re-tendering.

3. A decision was taken to dispose off the old and unused plants and machinery of the department and the price of the same was assessed at approximately Rs. 11 and a half lacs. It was decided to put those items to auction sale. For the aforesaid purpose, a short term auction tender was issued, attracting 47 participants. The base amount was fixed at Rs.11,69,213/-. The security deposit of Rs.2,92,400/- was to be furnished by each of the participants.

4. The bidder who came out with the highest price, back-tracked, abandoning his security deposit. The petitioner stood second as he had offered Rs.15,10,000/- for the goods.

5. A direction then was sought by the Executive Engineer from the Superintending Engineer whether the petitioner as H2 could be accepted as the



successful bidder. The Superintending Engineer left the matter to the discretion of the Executive Engineer, who ultimately decided, for the reason of the big difference in the price offered by H1 and the petitioner, to cancel the entire tender and go for re-tendering.

6. The learned counsel for the petitioner submits that one of the clauses of the Notice Inviting Tender is that in the event of the highest bidder not depositing the amount within a particular period of time would lose his deposit and the bid of the second highest bidder could be accepted.

7. Based on this, as also on the principle of legitimate expectation, the petitioner has challenged the aforementioned decision of recalling the tender for the purposes of re-tendering, only on the ground of the expectation of the State to get more revenue out of those unused/clapped out plants and machinery.

8. True it is that mere expectation of garnering larger revenue by the State cannot solely be



the reason for cancelling a tender in its entirety, but, in the present case, considering the difference between the price offered by H1 and the petitioner, a conscious decision was taken by the Executive Engineer to go for re-tender. The reason is to protect the finances of the State.

9. Very recently, the Supreme Court in Special Leave Petition(C) No(s). 12353-12355 of 2021 (**The Principal Chief Conservator of Forest & Ors. vs. Suresh Mathew & Ors.**) has held that the Government is the protector of financial resources of the State and it has every right to cancel and call for fresh tender if it is in the nature of protecting the financial interest of the State.

10. There is nothing in the impugned order which reflects that another tender would not be issued or there would be any proscription on the petitioner participating in the said bid.

11. In that view of the matter, we do not find any reason to interfere with the decision of the Executive Engineer in recalling the entire tender for the purposes of



re-tendering for auction of goods.

12. The petition is dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Saurabh/Rajesh

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.05.2025
Transmission Date	NA

