

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6238 of 2025

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Gangadhar Narayani Construction Pvt. Ltd. having its Head Office at Sankat Mochan Nagar, New Police Line, Nawada, Ara, through its Managing Director, Abhay Kumar Mishra, aged about 59 years, Male, son of Late Chandrama Mishra, resident of Flat No. G-1, Girja Nandan Enclave, IAS Colony, Rupaspur, P S Rupaspur, District Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Planning and Development Department, Government of Bihar, Patna.
2. The Engineer in Chief, Planning and Development Department, Government of Bihar, Patna.
3. The Chief Engineer, Local Area Engineering Organization, Bihar, Patna.
4. The Superintending Engineer, Local Area Engineering Organization, Works Circle, Patna, Bihar.
5. The Executive Engineer, Local Area Engineering Organization, Works Division - I, Ara (Bhojpur), Bihar

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Jai Vardhan Narayan, Advocate Mr. Prabhat Ranjan, Advocate
For the Respondents	:	Mr. P.K. Shahi, Advocate General Mr. Amish Kumar Jha, JC to AG

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and

HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

4 21-01-2026 In the present writ application, the petitioner has
prayed for the following relief(s):

“(i) Quashing of the decision of the Tender Committee dated 15.01.2025 as contained in Memo NO. 298 (Annexure 2) by which, the Technical Bid of the petitioner has been rejected and held to be non responsive on the grounds that “the Experience Certificate submitted along with the Tender Document, in course of



verification has been found to be false and as such the Bidder does not meet the eligibility criteria under Clause 4.5 A (b) of the S B D

(ii) Quashing of the subsequent and consequential decision of the Tender Committee dated 20.01.2025 as contained in Memo No. 401 dated 21.01.2025 whereby, misinterpreting the objection filed by the petitioner, the earlier decision dated 15.01.2025 rejecting the petitioner's Technical Bid has been reiterated although on an absolutely new and different ground and based on extraneous and materials;

(iii) Direction upon the Respondents to reconsider the decision of the Tender Committee dated 20.01.2025 on the basis of the verification report of the work experience certificate submitted along with the tender document;

(iv) Direction upon the Respondents to consider and dispose of by a reasoned and speaking order, the objections/ representations filed by the petitioner vide Communication dated 23.01.2025, 24.01.2025 and 01.02.2025 respectively; and

(v) Restraining the Respondents from proceeding further and finalizing the Tender6238 process by creating third party right during the pendency of the present writ



*application and/or the without the leave of this
Hon'ble Court.”*

2. The brief facts of the case are that a NIT (Notice Inviting Tender) was published on 27.11.2024 for construction of Panchayat Sarkar Bhawan in the District of Bhojpur. The petitioner had participated in the said Tender Process, and was disqualified at the Technical bid Stage. The Tender Committee had disqualified the technical bid of the petitioner vide its decision dated 15.01.2025 on the ground that, the work experience certificate, submitted by the petitioner, was found to be false and the bidder does not meet the eligibility criteria under Clause 4.5 A (b) of the S.B.D. (Standard Bidding Document). In pursuance to the same, the petitioner had submitted its objection dated 17.01.2025 taking a stand that the experience certificate submitted by him is correct. The Tender Committee reiterated its earlier stand, vide its decision dated 20.01.2025. Thereafter, an objection dated 23.01.2025 was again submitted by the petitioner, and on 28.01.2025 the respondent authorities again passed an order stating therein that



the genuineness of the work experience certificate submitted by the petitioner appears to be doubtful. The relevant portion of the order dated 28.01.2025 is reproduced as under:

“निविदा समिति का निर्णय:-

उपर्युक्त समीक्षा के आलोक में विचारोपरान्त निविदा समिति द्वारा पूर्व में लिये गये निर्णय को यथावत रखा गया। इस निविदा में प्रतिभागी सभी ०२ (दो) अदद निविदादाताओं में से ०१ (एक) अदद निविदादाता Rohit Kumar Singh के तकनीकी बीड को सफल घोषित किया जाता है तथा ०१ (एक) अदद निविदादाता M/s Gangadhar Narayani Const. Pvt. Ltd. के तकनीकी बीड को असफल घोषित किया जाता है।

चूंकि पुनर्निविदा में दो निविदादाता में से (एक) अदद निविदादाता के तकनीकी बीड को सफल किया गया ऐसे मामले में पथ निर्माण विभाग के अधिसूचना सं० -०७/नियम-०३/२०१६-३१६२(९) दिनांक-०९.५.२०१६ में उल्लेखित प्रावधानों के अनुसार निविदा का निष्पादन सक्षम प्राधिकार से एक स्तर से उपर के प्राधिकार द्वारा किया जाना अपेक्षित है। ”



3. A counter affidavit has been filed on behalf of Respondent Nos.3 to 5, wherein the following statements have been made in paragraphs 8, 9, 10, 11, 14 & 15:-

"8. That on 20.01.2025, the Tender Committee reconvened to evaluate the objections raised by the bidders. Upon examining the documents submitted by the Respondent, it was noted that the petitioner had previously submitted a work experience certificate for the same project issued on date 09.04.2024 in a different tender (Work Division-02 Sonapur Re-NIT: 01E/SBD/2024-2025, Group No: 1). In the current submission, however, the petitioner provided a different work experience certificate for the same project, this time issued on date 26.07.2024. Notably, both certificates state the actual completion date as 26.02.2024, yet discrepancies were found in the quantities and amounts of certain executed items, which is implausible under any circumstance. Furthermore, in support of the latest certificate, the petitioner attached RA Bill-5. However, this bill indicates a date of measurement as 30.05.2024 and an extended completion date of 31.05.2024 clearly contradicting the earlier



claimed completion date of 26.02.2024. Additionally, the name of the work mentioned in RA Bill-5 differs from that stated in the experience certificate, despite both documents referencing the same agreement number and project value, which further adds to the inconsistencies and raises concerns of misrepresentation.

9. That Tender Committee, upon consideration of the above-mentioned points, has upheld its earlier decision and declared the petitioner disqualified. This decision is recorded in Memo No. 401 dated 20.01.2025, which has been uploaded on the e-proc2 portal.

10. That the petitioner once again raised an objection on 24.01.2025 regarding the decision to disqualify them, and submitted a handover certificate for the same work along with email verification related to the aforesaid work.

11. That on 28.01.2025, the Tender Committee reconvened to evaluate the objections raised by the bidders. Upon reviewing the documents and evidence submitted by the petitioner, the Committee found no material justification explaining how two certificates issued on different dates but bearing the same actual date of completion could reflect discrepancies in the



quantity and value of work executed. Consequently, the petitioner was once again adjudged disqualified based on this evaluation. The final decision of the Tender Committee is recorded in Memo No. 579 dated 29.01.2025 and has been uploaded on the e-Proc2 portal, with no further time granted for clarification, as no substantive evidence was provided to warrant reconsideration. The decision remains unchanged.

14. That the petitioner's claim that deviations and extra items were included in the latter-submitted work experience certificate is untenable. A work can only be considered complete once all deviations and extra items are duly sanctioned. Therefore, if the actual completion date was indeed 26.02.2024, there should be no variation in quantities beyond that date, regardless of when the certificate is issued. It is pertinent to note that in the work certificate dated 09.04.2024, the recorded payments were: (i) 26,70,965/- for Electrical Work including Substation, and (ii) ₹80,501/- for Safety Equipment. However, in the certificate dated 26.07.2024, the corresponding figures were: (i) ₹26,24,981/-and (ii) 235,984/-, respectively.



Such a reduction in payment amounts between two certificates-both purporting to represent completed work as of the same date is inexplicable and indicates inconsistencies that undermine the credibility of the petitioner's claim.

15. That it clearly suggests the petitioner made a deliberate attempt to use a fabricated certificate to obtain the tender, thereby demonstrating non-bona fide intentions. As per Clause 4.8 of the Standard Bidding Document (SBD), "Even though the bidder meets the above qualifying criteria, they are subject to disqualification if they have made misleading or false representations in the forms, statements, and attachments submitted in proof of the qualification requirements." Furthermore, the affidavit submitted by the bidders at the time of tender submission states: "I do hereby certify that all the statements made in the required attachments are true and correct, and if found fake/forged, the undersigned will be liable for FIR or lawful punishment as well as blacklisting." In light of these provisions, the petitioner's claim is not sustainable in the eyes of law and is clearly in violation of the guidelines laid down in the SBD."



4. A rejoinder to the counter affidavit has also been filed on behalf of the writ petitioner, whereby the petitioner did not choose to respond to paragraphs 14 & 15 of the counter affidavit.

5. A very limited question for consideration before us is that whether the technical bid submitted by the petitioner is in contravention to the Clause 4.5A(b) of the S.B.D. which is annexed as 'Annexure P/1' to the writ petition. Clause 4.5A(b) to the Tender Notice is as follows:-

"4.5 To qualify for award of the contract, each bidder in its name should have in the last five years as referred to in Appendix :-

(b) Satisfactorily completed as a prime contractor (or as a nominated subcontractor, where the subcontract involved execution of all main items of work described in the bid document, provided further that all other qualification criteria are satisfied) at least one similar work (Building work) of value not less than amount indicated in Appendix (usually not less than 25% (twenty five percent) of estimated value of contract);"



6. It would be pertinent to consider the objections raised by Tender Committee in their decision dated 28.01.2025, which is reproduced as under:-

“2. *M/s Gangadhar Narayani Const. Pvt. Ltd.* :- ये जल संसाधन विभाग के वर्ग-1 में निबंधित संवेदक है, जिनका निबंधन संख्या-WRD-220420CICO20/ 20 है। इनके द्वारा पूर्व में कार्य प्रमंडल -02, सोनपुर के पुनर्निविदा सं0-01E/ SBD/ 2024-25 के ग्रुप सं0-01 में समर्पित किये गये एक ही कार्य के अनुभव प्रमाण पत्र (दिनांक-09.04.2024 को निर्गत) एवं इस निविदा में भी समर्पित same कार्य के अनुभव प्रमाण पत्र (दिनांक-26.07.2024 को निर्गत) में कार्य समाप्ति की वास्तविक तिथि 26.02.2024 दर्शाया गया है। उक्त दोनों अनुभव प्रमाण पत्र के अवलोकन से स्पष्ट होता है कि कार्य समाप्ति की वास्तविक तिथि 26.02.2024, same होने के बाद भी कार्य की मात्रा में भिन्नता है जो कि किसी भी परिस्थिति में संभव नहीं है तथा इनके द्वारा समर्पित स्पष्टीकरण में संलग्न किया गया RA



BILL-5 (चालू विपत्र, Final Bill नहीं) में कार्य का नाम ही अलग अंकित है तथा Date of Measurement 30.05.2024 एवं Extended Date of Completion 31-05-2024 दिखाया गया है जो कि समर्पित अनुभव प्रमाण पत्र पर अंकित Actual Date of Completion Date 26-02-2024 के बाद का है जो कि संभव नहीं है। अतः इनके द्वारा एक ही कार्य के अलग-अलग Data प्रदत्त करने की वजह से ये वांछित अनुभव प्रमाण पत्र की अर्हता को पूरा नहीं करते हैं। इस संबंध में पुनः स्पष्टीकरण समर्पित कर इनके द्वारा उपर्युक्त टिप्पणीयों के आलोक में कोई ठोस तथ्य समर्पित नहीं किया गया जिससे यह सत्यापित हो सके कि एक ही कार्य के दो अलग -अलग दिनांकों पर निर्गत अनुभव प्रमाण-पत्रों पर कार्य समाप्ति की तिथि एक होने की स्थिति में भी कार्य कराये गये मात्राओं में भिन्नता कैसे प्रदर्शित हुई तथा RA BILL-5 (चालू विपत्र, Final Bill नहीं) में कार्य का नाम ही अलग अंकित होना तथा Actual Date of Completion Date 26-02-2024 अंकित होने के बाद भी Date of



*Measurement 30.05.2024 एवं Extended
Date of Completion 31-05-2024 दिखाये
जाने को लेकर कोई सत्यापित तथ्य समर्पित
नहीं किया गया है. फलस्वरूप SBD Clause
4.5 A (b) के आलोक में ये तकनीकी निविदा
की अर्हता को पूरा नहीं कर रहे हैं। ”*

7. Upon perusal of the decision of the Tender Committee dated 28.01.2025, it is evident that the petitioner has been unable to provide any material evidence as to how two different certificates, bearing different dates of completion, could be procured for the same work. It is further evident from the entire pleadings and the documents on record that the petitioner has not explained the circumstances which led to issuance of two different certificates. Further, in the rejoinder to the counter-affidavit, petitioner has not been able to dislodge the specific contention of the respondent-state made in paragraphs 14 and 15 of the counter affidavit. As such, the work experience certificate submitted by the petitioner cannot be considered to be valid and correct, and is in contravention to clause 4.5 A (b)



of the S.B.D.

8. Considering the materials on record and the discussions made above, it becomes clear that the petitioner was unable to fulfill the eligibility criteria as mentioned in the S.B.D. (Standard Bidding Document). Therefore, the question, as referred above is answered in affirmative.

9. Hence, we find no reason to interfere with the decisions of the Tender Committee, by which the petitioner's technical bid has been rejected.

10. Accordingly, the present writ application stands dismissed.

11. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J.)

(Ritesh Kumar, J.)

Gaurav Kumar/-

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