

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15018 of 2025

M/s Star Construction Balua Taal, Motihari through its Managing Partner Parwez Ahmad Khan, aged about 53 years Male, S/o Haseen Ahmad Khan, Resident of Mohalla-Balua Taal, P.S.-Motihari Town, District-East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Superintending Engineer cum Nodal Officer Rural Works Department, Bihar, Patna.
4. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
5. The Chief Engineer-5, Rural Works Department, Bihar, Patna.
6. The Executive Engineer, Rural Works Department, Work Division, Dhaka, Motihari, District-East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Dr. Ranjeet Kumar, Advocate Mr. Rajnish Prakash, Advocate Ms. Lakshmi Kumari, Advocate
For the State	:	Mr. Addl. Advocate General (04)

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

4 04-02-2026 Following is the relief sought for in the present writ application:-

“I. For setting aside the minutes of the departmental tender committee Dated 05.07.2025 headed by the Additional Chief Secretary, Rural Works Department, whereby the financial bid already opened on 03.06.2025 and decided in



favour of the petitioner with respect to item Serial No.- 17 of N.I.T. No. MR-3051-07/2024-25 Dated 05.11.2024 has been resolved to be cancelled unilaterall on the ground that the petitioner did not have bid capacity on the date of opening of financial bid and finally it has been cancelled.

II. For setting aside the fresh N.I.T. issued vide N.I.T. Re-tender No. MR-3054-02/2025-26 Dated 11.07.2025 to the extent of item Serial No. 1, which has been issued for the same work in which the petitioner had already been declared as L1.

III. For issuance of direction to the respondents authorities to execute agreement with the petitioner on the basis of financial bid Dated 03.06.2025 relating to Item Serial No. 17 of N.I.T. No. MR-3054-07/2024-25 Dated 05.11.2024.

IV. For that any other relief/reliefs for which the petitioner may be deemed entitled to.”

2. The brief facts of the present case are that the petitioner had participated in the NIT No. – MR-3054-07/2024-25 published by the respondent department dated 05.11.2024. The petitioner was declared technically qualified in the same *vide* decision of the technical evaluation committee dated 02.06.2025. Thereafter, the financial bids were opened on 03.06.2025, wherein the petitioner was declared to be L1. However, the tender evaluation committee after opening of the financial bids reconsidered the matter on 05.07.2025 and it was found that petitioner did not have sufficient bid capacity. The



respondent department in view of this finding, cancelled the tender in question and issued directions for a fresh tender.

3. The learned counsel for the petitioner submits that the petitioner had sufficient bid capacity for the work in question on the date of submitting his bid. The learned counsel for the petitioner also submits that the impugned order was issued without giving any show cause notice to the petitioner, and as such the principles of natural justice has been violated. The learned counsel further submits that the impugned order is highly arbitrary, illegal, malicious and a result of colorable exercise of power.

4. A counter affidavit has been filed on behalf of Respondent nos. – 2 to 6. From the perusal of the said counter affidavit, it is apparent that the bid capacity of the petitioner is less than the quoted rate. The relevant paragraphs of the counter affidavit is reproduced as under:-

“11. That pursuant to aforesaid recommendation the Financial Bid of the tender in question was opened on 03.07.2025 and the Bidder M/S Star Construction was declared Lowest Quoted Bidder (L1) for the tender in question.

12. That thereafter the Bid Capacity of the petitioner was calculated during which it came to the notice regarding existing commitments petitioner in of various works divisions prior to award of Tender ID. 137506 which are as follows:-



i. *Work Allotment of Total Value Rs.168.61302 Lakhs in Works Division Pakridayal (MR-N/24-25 Pakridayal/01 Tender Id-137499) vide Chief Engineer 5 letter no 562 dated 21.02.2025.*

ii. *Letter of Acceptance (LOA) for the execution of Package No. RRSMP/24-25 Pakridayal/-04 under 4515 MMGSUY (RRSMP for Contract Price of Rs. 160.28463 Lakhs vide Executive Engineer, Works Division, Pakridayal Letter no 1118 dated 28.05.2025.*

iii. *Selected as LI in Tender Id-139540 (RRSMP) in RWD Works Division, Bettiah with Work Value Rs.222.94739 Lakhs in Financial Bid Opened on dated 31.05.2025, for which work has not been awarded till date.*

As the work for Tender Id-137506 Sikharna Dhaka was not been awarded till 04.07.2025, hence Bid Capacity of Bidder M/s Star Construction in light of above mentioned existing Commitments was -

656.64 Lakhs- (168.61302+160.28463) Lakhs = 327.74235 Lakhs Total Tender Value- 353.25165 Lakhs. (if Work Value Rs.222.94739 Lakhs mentioned above in para 5 (iii) is not considered in existing commitments)

656.64 Lakhs - (168.61302+160.28463+222.94739) Lakhs = 104.79496 Lakhs < Total Tender Value-353.25165 Lakhs (if Work Value Rs.222.94739 Lakhs mentioned above in para 5 (iii) is considered in existing commitments)

13. That in the light of the aforesaid Calculation of Bid Capacity of the petitioner the Departmental Tender Committee in its meeting held



on 05.07.2025 came to the decision to cancel the Tender ID. 137506 on account of less bid capacity of the petitioner from quoted rate and to invite re-tender vide decision dated 05.07.2025.”

5. The petitioner has been unable to refute the calculations and averments made in the counter-affidavit relating to the existing commitment and the bid capacity of the petitioner. Therefore, in absence of any objection to the averments made, this Court has relied upon the statement made in the counter-affidavit.

6. The petitioner has challenged the order dated 05.07.2025 by which the tender itself has been withdrawn. Clause 29 of the N.I.T. dated 05.11.2024 empowers the respondent authorities to cancel the entire bidding/tender process. The relevant clause is reproduced as under:-

“29. The Engineer in Chief-cum-Additional Commissioner-cum-Special Secretary/Engineer in Chief reserved the right to accept or reject any bid and to cancel bidding process and reject all bids, at any time prior to the award of the contract without assigning any reason thereof.”

7. From the perusal of materials on record and the discussions made above, it is evident that the respondents reserve the right of recalling the N.I.T. at any stage. The provisions of N.I.T are binding on both the parties, and the



petitioner had voluntarily participated in the tender process with full knowledge of its terms and conditions, including the said Clause 29.

8. Further, the respondent authorities have decided to float a fresh tender with respect to the work in question. Floating a fresh tender does not cause any prejudice to the petitioner and the petitioner is at liberty to participate in the same.

9. As such, we find no irregularity in the impugned order and the directions issued by the respondent authorities.

10. Accordingly, the present application stands disposed of.

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

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

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