

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.441 of 2026

Edisson India, Through its proprietor of Sandeep Kumar, S/o Sri Dharampal Yadav, Office at C-122, First Floor, Sector-10, Noida, Gautam Budh Nagar, Uttar Pradesh- 201301, India.

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. Principal Secretary, Building Construction Department, Government of Bihar, Patna, Vishweshwaraiya Bhawan, Bailey Road, Patna, Bihar- 800015.
3. Arcop Associates Pvt. Ltd., through its Director, Address- A-15, Pamposh Enclave Greater Kailash- I, New Delhi, India, 110048.

... .. Respondents

Appearance :

For the Petitioner : Mr. Rajesh Kumar Dubey, Advocate
For the Respondents : Mr. Government Pleader-3

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

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

2 22-01-2026 In the present writ petition, the petitioner has prayed
for the following relief(s):-

“(i) For that issue a writ, order, or direction in the nature of mandamus, thereby quashing the impugned tender notifications bearing No. 19/BCD/CONS DIV 01/2024-25 dated 21.07.2025, issued by the Building Construction Department, Government of Bihar, on the ground of arbitrariness, procedural impropriety, and violation of Article 14 of the Constitution of India;
(ii) For declare that the eligibility criteria and



technical specifications prescribed under the aforementioned tenders are ultra vires the principles of fair competition, transparency, and inclusive participation, and are violative of the statutory norms governing public procurement;

(iii) For direct the Respondent Department to place on record the complete set of pre-bid queries, responses, corrigenda, and internal communications pertaining to both tenders, for the purpose of judicial scrutiny and verification of procedural integrity;

(iv) For declare that the premature commencement of work under Tender No. 07/BCD/CONS DIV 01/2025-26, in the absence of a formally declared awardee, is illegal, and direct the Respondent Department to forthwith suspend all ongoing activities under the said tender until the conclusion of this writ petition;

(v) For that, the other relief/reliefs as your Lordship may deem fit and proper in the interest of justice to the petitioner.”

2. The brief facts of the present case are that the Building Construction Department, Government of Bihar floated Tender No.19/BCD/CONS DIV 01/2024-25 dated 13.01.2025 and Tender No.07/BCD/CONS DIV 01/2025-26 dated 21.07.2025 for execution of construction and



infrastructural works at the Outdoor Stadium, Patliputra Sports Complex, Patna and the State Sports Academy cum International Standard Modern Cricket Stadium at Rajgir, District Nalanda, respectively. The petitioner had participated in the said tender processes by submitting his bid. However, the petitioner alleged that he was rendered non- competitive in the said tender processes. Aggrieved by the non-selection and the manner in which the tender process was conducted, the petitioner has preferred the present writ petition.

3. Learned counsel for the petitioner submits that although the petitioner participated in both tender processes in accordance with the prescribed procedure, the entire tender exercise was vitiated by arbitrariness, lack of transparency, and a pre-determined approach adopted by the respondent department. It is submitted that in respect of Tender No. 19/BCD/CONS DIV 01/2024-25 dated 13.01.2025, the eligibility criteria were framed in an exclusionary manner, prescribing conditions such as exceptionally high turnover requirements, prolonged OEM presence in India, and prior experience limited to international-level stadium projects of



substantial value.

4. It is further submitted by the learned counsel for the petitioner that during the pre-bid query stage, the petitioner raised objections and sought relaxation of the restrictive eligibility conditions. However, the respondent department selectively addressed only certain queries while ignoring the substantive concerns raised by the petitioner and similarly situated bidders. It is submitted that such selective consideration, defeats the very purpose of the pre-bid process and amounts to procedural unfairness.

5. With regard to Tender No. 07/BCD/CONS DIV 01/2025-26 dated 21.07.2025, it is submitted that the arbitrariness was even more apparent. The Bill of Quantity allegedly specified particular brand names, which is contrary to established norms of competitive and brand-neutral public procurement. It is submitted that such brand-specific stipulations, demonstrate a lack of competitive neutrality and indicate a pre-determined intent.

6. Learned counsel for the petitioner further submits



that certain pre-bid documents bore the stamp of a private entity instead of an authorised government official, which, according to the petitioner, raises serious concerns regarding procedural propriety.

7. Learned counsel for the respondent submits that Tender No. 19/BCD/CONS DIV 01/2024-25 dated 13.01.2025 has already been finalized. It is further submitted that the tender process has been completed and the work has been awarded, and therefore the rights of the successful bidder have already been created. In such circumstances, the concluded tender process cannot be reopened at the instance of an unsuccessful bidder, especially when no timely challenge was raised.

8. It is further submitted that the petitioner was fully aware of the eligibility criteria and all other terms and conditions prescribed in the tender documents at the time of submission of his bids. After having consciously accepted the eligibility requirements and participated in both tender processes, the petitioner cannot be permitted to question the eligibility criteria or the procedure adopted by the department



after being declared unsuccessful. Having participated with full knowledge, the petitioner is estopped from challenging the tender conditions at a later stage.

9. Learned counsel for the respondent further submits that the tender conditions were uniformly applicable to all bidders and that no relaxation or concession was granted exclusively to any particular entity. The petitioner, having failed to meet the evaluation criteria or secure selection, cannot now be permitted to assail the tender process on grounds which were known to him at the time of participation.

10. The limited question that arises for consideration is whether the petitioner, after having participated in the tender process and having been declared unsuccessful, can thereafter challenge the tender notice and its conditions.

11. Upon perusal of the materials available on record and submissions made on behalf of the parties, it is not in dispute that the petitioner participated in the tender process with full knowledge of the eligibility criteria, terms, and conditions contained in the tender documents.



12. Having consciously participated in the process and taken a calculated chance, the petitioner cannot be permitted to challenge the tender notice or the eligibility conditions after being declared unsuccessful. Participation in the tender process amounts to acceptance of the prescribed criteria and the procedure adopted, and a challenge raised only after an unfavourable outcome is legally untenable. Entertaining such a challenge would amount to allowing an unsuccessful bidder to reopen a concluded tender process, which is impermissible in law.

13. The aforesaid view is supported by the settled legal principles laid down by the Hon'ble Supreme Court and various High Courts, wherein it has consistently been held that a participant who knowingly takes part in a selection or tender process is estopped from challenging the same after being unsuccessful. At this juncture, it is pertinent to take note of the decision rendered by the Hon'ble Supreme Court in ***Jagdish Mandal v. State of Orissa & Ors.***, reported in ***(2007) 14 SCC 517***, wherein the Court observed as under:



“19. ... Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. ...”

14. Further, the Hon’ble Supreme Court in ***Meerut Development Authority v. Association of Management Studies & Ors.***, reported in ***(2009) 6 SCC 171***, while explaining the scope of judicial review in tender matters, observed as follows:

“What is the nature of rights of a bidder participating in the tender process?”

26. A tender is an offer. It is something which invites and is communicated to notify acceptance. Broadly stated it must be unconditional; must be in the proper form, the person by whom tender is made must be able to and willing to perform his obligations. The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. However, a limited judicial review may be available in cases where it is established that the terms of the invitation to tender were so tailor made to suit the convenience of any particular person with a



view to eliminate all others from participating in the bidding process.

27. The bidders participating in the tender process have no other right except the right to equality and fair treatment in the matter of evaluation of competitive bids offered by interested persons in response to notice inviting tenders in a transparent manner and free from hidden agenda. One cannot challenge the terms and conditions of the tender except on the above stated ground, the reason being the terms of the invitation to tender are in the realm of the contract. No bidder is entitled as a matter of right to insist the Authority inviting tenders to enter into further negotiations unless the terms and conditions of notice so provided for such negotiations.”

15. In view of the aforesaid discussion and the settled legal position, this Court finds that the issue framed for consideration deserves to be answered in the negative. The petitioner, having knowingly participated in the tender process and having been declared unsuccessful, cannot thereafter be permitted to challenge the tender notice or the conditions thereof.

16. Accordingly, the present writ application stands



dismissed.

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

(Sudhir Singh, J.)

(Ritesh Kumar, J.)

Gaurav Kumar,
Krishnakant/-

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