
(2017) 08 PAT CK 0041

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4486 Of 2017

Kamakshi Minakshi Construction Private Limited

APPELLANT

Vs

State Of Bihar Through The Secretary And Ors

RESPONDENT

Date of Decision : 10-08-2017

Acts Referred:

Citation : (2018) 3 PLJR 461

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Sanjeev Kumar, Alok Kumar, Ajay, Ashish Kumar

Final Decision : Disposed Of

Judgement

Heard learned counsel for the petitioner and learned counsel for the State.

In the present writ petition, petitioner is challenging the decision dated 10.3.2017 of the Technical Bid Committee by which he has been declared

unsuccessful on the ground persons who have not purchased the non-judicial stamp having been used by them for affidavit attached with N.I.T.

It appears from the record that a tender was published vide tender no. RWD/NABARD/SBD/11/E-Tender/2015-16. The petitioner and others have

participated in the tender. The petitioner has also filed the tender. In the technical bid and financial bid the petitioner was declared L-1 but later on, on

the complaint made by Member of Legislative Assembly the technical bid was revisited and petitioner was declared unsuccessful in technical bid on

the ground that affidavit which has been filed on non-judicial stamps was purchased by the Company having been used by individuals, having filed their respective affidavit.

Paragraph 5 of enquiry report (Annexure-A) to the counter affidavit itself shows

that in prevalent practice, stamp purchased by an individual can be used by other by filing an affidavit. This Court has asked from the counsel for the State as to whether such condition has been mentioned in the NIT but counsel for the State has fairly stated that there is no such condition in the N.I.T. He submits that there is nothing in the counter affidavit to show that such condition is/was there. If such condition is not in the NIT such condition cannot be a ground for the purposes of rejection of the tender and that too at the instance of Member of Legislative Assembly who is no way connected with the out come of the tender.

Learned counsel for the State has further submitted that already department has gone for second tender but learned counsel for the petitioner submits that as matter was pending before this Court petitioner has not participated in the tender..

In the facts and circumstance of this caser, it appears that previous proceeding suffers from illegality and ground of rejection of technical bid is not sustainable at all.

In such view of the matter, this Court directs that second tender will not be taken into consideration and concerned authority is directed for fresh tender and petitioner, if so advised, may participate in the fresh tender.

With the aforesaid observation and direction this writ petition is disposed of.