

(2020) 09 PAT CK 0237

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7738 Of 2020

Ranjeet Prasad

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 18-09-2020

Acts Referred:

Essential Commodities Act, 1955 — Section

Citation : (2020) 09 PAT CK 0237

Hon'ble Judges : Vikash Jain, J

Bench : Single Bench

Advocate : Binay Kumar, Gyan Shankar, Shailendra Kumar Singh

Final Decision : Dismissed

Judgement

1. This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by

the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e- filing shall be

made, without delay immediately upon resumption of physical functioning of the Court, and in any event within one month thereof. Learned counsel for

the respondents states that they have no objection in this regard and the matter be taken up on merits in view of the stated urgency.

2. The present writ petition has been filed for a direction to the respondents to consider the tender of the petitioner in view of the principle of law

laid down by this Hon'ble Court in CWJC No. 13263 of 2008 (Pawan Kumar vs. The State of Bihar and others) and its analogous case as Clause

10(vii) of the NIT No. 5784 dated 08.07.2020 which obstruct the petitioner from taking part in bidding process merely on the ground of FIR has been

lodged by competent authority and/or pass such other order(s) as your Lordships

may deem fit and proper under the facts and circumstances of the case??

3. Learned counsel for the petitioner states that the petitioner is a contractor of Handling and Transporting Agent under doorstep delivery DSD)

scheme of Bihar State Food and Civil Supplies Corporation Ltd., (hereinafter referred to as the ??Corporation?) and has work experience in this

regard. A notice inviting tender no. 5784 dated 08.07.2020 was issued by the Corporation for appointment of Transporting and Handling Agent for

Revenue District of Gaya. Learned counsel for the petitioner makes a statement at the Bar that the petitioner duly participated in the tender and

submitted his bid. Reference is invited to Clause 10(vii) of the NIT which provides that ??Cognizance taken by Court of law or FIR has been lodged

by competent authority in any matter related to Transportation, Handling, Pilferage, Black marketing etc., of food grains against a bidder or

Transporter will amount to ineligibility for the purpose of taking part in bidding processIt oris statedcontinuingthatasParaiyaHndlingP.S.Caseand

TransportingNo.206of Contractor2018has.? been registered under Section 7 Essential Commodities Act in connection with accusation against some

PDS dealers in which the petitioner?s name has also been dragged in course of investigation. It is therefore apprehended that the petitioner?s

bid will not be considered for the reason stated above. Reliance is placed on a decision of this Court dated 07.01.2009 in CWJC No. 13263 of 2008

(Pawan Kumar vs. The State of Bihar) and analogous case, inter alia, observing that ??It is well established that mere pendency of criminal case

does not lead to any conclusion of guilt. On mere allegation by a party, if a person is to be deprived from his right to business it would amount to a

punishment with irreparable injury, for if after five years the allegations are found to be false, the loss suffered, as a consequence of being deprived of

business cannot be compensated by any one in any manner.??

4. Learned counsel for the respondent-Corporation appears and opposes the writ petition, submitting that the same has been filed prematurely. Having

participated in the tender process with full knowledge of the terms and conditions of the NIT, the petitioner cannot now be allowed to challenge the

terms of the NIT. In any event, apprehension of the petitioner is premature as the bids have not yet been opened and the matter is pending before the

District Transport Committee. There is nothing to indicate at this stage that any adverse decision against the petitioner would be taken. As regards

reliance placed by the petitioner on a decision in it is submitted that the same is distinguishable from Pawan Kumar's case on (supra) facts. In that case,

there was recommendation after due investigation for filing final form for not prosecuting one of the petitioners. With regard to the other petitioner in

that case, two cases had been filed against him, in one of which he was acquitted and in the other, final form had been recommended after

investigation. In the present case, FIR has been filed against the petitioner which is still under investigation.

5. Having heard the parties and on consideration of the materials on record, this Court is not inclined to pass any positive order at this stage. It is not in

dispute that the petitioner, with full knowledge of the terms of the NIT, has participated by submitting his bid, which is pending consideration.

Significantly, the terms of NIT are not challenged in the present writ petition and as such only an apprehension has been expressed that clause 10(vii)

of the NIT may come in the way of the petitioner's bid being considered.

6. In these circumstances, the writ petition is dismissed with the observation that if the petitioner is aggrieved by any adverse order in future, he may

approach this Court if so advised.

7. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the

stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.