

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11231 of 2025

Rajeev Ranjan Kumar, (Proprietor M/s R.K. Enterprises) aged about 37 years (Male), Son of Lalan Prasad Yadav, Resident of Mohalla- Jogaulia Tola, Rupani, P.S.- Madhuban District- East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Electoral Officer, Bihar, Patna.
2. The Chief Electoral Officer, Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Election Officer-Cum-District Magistrate, Sitamarhi, District-Sitamarhi.
5. The District Magistrate, Sitamarhi, District- Sitamarhi.
6. The Deputy Election Officer, Sitamarhi, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
For the ECI	:	Mr. Siddhartha Prasad, Advocate
For the State	:	Mr. P.K. Shahi, Advocate General
		Mr. Vikas Kumar, AC to AG

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-08-2025

Learned counsel for the petitioner, at the outset,
seeks permission to amend the prayer clause.

2. Permission, as prayed for, is granted.

3. The present petition has been filed under Article 226 of the Constitution of India, in which the petitioner has prayed for quashing of the Notice Inviting Tender (for short 'NIT')/very short term tender dated 02.07.2025 issued by respondent no. 4 for preparing voter list/electoral roll through



ERO-Net, revision of such voter list, revision and constant upgradation of such list through data entry, scanning, uploading, publishing checklist, publishing electoral roll/voter list and other works relating to electoral roll/voter list for the eight Legislative Assembly constituencies of the District-Sitamarhi.

3.1 The petitioner has also prayed that the respondents be directed not to proceed with the aforesaid NIT.

4. At this stage, it is pertinent to note that the petitioner has also filed I.A. Nos. 01 of 2025 and 02 of 2025, by which the petitioner has challenged another NIT dated 18.07.2025 for the same work as well as the NIT dated 19.07.2025 for the same work. The aforesaid two NITs were issued after filing of the present petition, and therefore, by filing separate IAs, such NITs were also challenged.

5. Heard Mr. Brisketu Sharan Pandey, learned counsel for the petitioner, Mr. P.K. Shahi, learned Advocate General assisted by Mr. Vikas Kumar, learned AC to A.G. for the State of Bihar and Mr. Siddhartha Prasad, learned counsel for the Election Commission of India.

6. Learned counsel for the petitioner referred to the averments made in the memo of petition and thereafter contended that respondent no. 4, on 19.06.2025, prior to the



issuance of impugned NIT dated 02.07.2025, issued a similar tender for the same purpose, i.e., for preparing voter list/electoral roll through ERO-Net, revision of such voter list, revision and constant upgradation of such list through data entry, scanning, uploading, publishing checklist, publishing electoral roll/voter list and other works relating to electoral roll/voter list for the eight Legislative Assembly constituencies of the District-Sitamarhi.

7. However, the said NIT was deliberately not posted on the web portal of PRD or web portal with the link of NIC website. It was posted only on the portal relating to District-Sitamarhi. It is further submitted that objections were raised by the bidders. Respondent no. 4 signed the impugned NIT on 02.07.2025, and the same was published and brought to the public domain on 05.07.2025.

8. The grievance of the petitioner is that the said tender dated 02.07.2025 does not follow the Model Tender Invitation in many aspects. Learned counsel submits that the model tender, as provided by the Election Department, Bihar, Patna, dated 25.01.2023 specifically provides the estimated value of the tender; however, the tender invitation in question does not mention the estimated value of the tender.



9. It is further contended that as per the model tender, the security deposit amount has to be determined as 2% of the estimated value. However, in the impugned tender invitation notice, the amount of security deposit has been determined as Rs. 1,00,000/- without mentioning any estimated value.

10. Learned counsel would further contend that even Bihar Finance (Amendment) Rules, 2005, in its Rule 131O provides that the amount of bid security should ordinarily range between 2% to 5% of the estimated value of the goods to be procured.

11. Learned counsel, at this stage, also contended that as per the model tender, it is mandatory to have a pre-tender meeting nine days before the date of opening of the bid. However, in the impugned NIT, no such provision for pre-tender meeting has been made. At this stage, it is also contended that, as per the model tender, the turnover of a tender participant has been kept at Rs. 40,00,000/- per annum for the last three years. However, in the impugned NIT, the minimum requirement of turnover has been increased to Rs. 80,00,000/-. Learned counsel, therefore, urged that the respondents have violated the model tender as provided by the Election Department, Bihar,



Patna.

12. Learned counsel further submits that representation has been made by the petitioner with regard to the aforesaid, despite which no action has been taken by the respondent-authorities and the respondents will proceed further with the NIT in question. At this stage, it is further pointed out that now the aforesaid NIT dated 02.07.2025 has been cancelled, and thereafter once again similar type of NITs came to be issued on 18.07.2025 and 19.07.2025. It is submitted that the last date of the opening of the technical bid was 28.07.2025.

13. Learned counsel, therefore, urged that the impugned NITs be quashed and direction be issued to the respondents to follow the model tender notice.

14. On the other hand, learned Advocate General has vehemently opposed the present petition. It has been mainly contended that the petitioner is not an aggrieved person and, in fact, he has not mentioned in the petition, as to how the petitioner is affected by the impugned NITs issued by the respondents. It is further contended that it appears that petitioner is championing the cause for other persons. It is further submitted that the model tender, upon which reliance is placed by the learned counsel for the petitioner, is merely a model



guideline. However, it is for the concerned employer/authority to prescribe the condition of tender and, therefore, it is not open for the present petitioner to assail the impugned NITs.

15. Learned Advocate General would further submit that the scope of interference, while exercising powers under Article 226 of the Constitution of India, in such type of matter is very limited.

16. Leaned Advocate General, therefore, urged that the petition be dismissed.

17. We have considered the submissions canvassed by the learned Advocates and perused the materials on record.

18. At the outset, we would like to refer to the decisions rendered by the Hon'ble Supreme Court in the case of ***Bharat Coking Coal Limited & Ors. Vs. AMR Dev Prabha & Ors.***, reported in **(2020) 16 SCC 759**, the Hon'ble Supreme Court has observed in paragraph nos. 19 and 20 as under:

“19. The counsel for the appellant, along with that for CI-India highlighted how the goalpost was being changed by Respondent 1 throughout the litigation. Whereas before the High Court AMR Dev Prabha sought adherence to terms of NIT and strict procedural compliance, but later they wished to settle the matter at a lower price claiming larger



public interest. This was claimed to demonstrate how AMR Dev Prabha's interest was, in fact, personal and not public, and only to win the tender one way or the other and not to maintain the sanctity of the auction process. The lack of on-the-spot protest, neither during the auction process, nor at the time of availing refund of the earnest money deposit; and the substantial delay in filing the writ petition (after more than 3 months of close of the auction process and 2 months from issue of the LOA) was nothing but an afterthought aimed at making a commercial opportunity out of litigation. Hence, the present proceedings were claimed to be an abuse of the process of law by AMR Dev Prabha and only a chance for arm twisting BCCL to award to it the tender, no better than a contractual enforcement of private rights.

20. Instead, it was submitted, that any possible infirmity was merely minor and inconsequential. There had been a substantive compliance of the tender process and the clauses of the notice inviting tender (“NIT”), and public interest of ensuring the lowest price discovery had been kept at the forefront. It was contended that hyper technical compliance was often not possible, nor desirable as often-a-times strict procedural compliance could defeat the ends of substantive equality, like in the present case.”

19. Similarly, in the case of **Tata Motors Limited**



Vs. Brihan Mumbai Electric Supply and Transport Undertaking (BEST) & Ors., reported in **(2023) 19 SCC 1**, the Hon'ble Supreme Court has observed in para-50 as under:

“50. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes do not have the necessary expertise to



adjudicate upon technical issues beyond our domain. The courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give “fair play in the joints” to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer.”

20. From the aforesaid decisions rendered by the Hon'ble Supreme Court, it can be said that the Court should exercise a lot of restraint while exercising powers of judicial review in contractual or commercial matters. The Court is normally loath to interfere in contractual matters, unless a clear-cut case of arbitrariness or *mala fides* or bias or irrationality is made out. While reviewing the decision making process, the Court should not act as a court of appeal.

21. Keeping in view the aforesaid decisions rendered by the Hon'ble Supreme Court, if the facts of the present case are examined, it would reveal that on 02.07.2025, impugned NIT came to be issued for the purpose of preparing voter list, electoral roll through ERO-Net, and other related matters. Thereafter, the same has been cancelled, and once again, the same NITs were issued on 18.07.2025 and



19.07.2025. The main contention of the learned counsel for the petitioner is that while issuing the NIT in question, the respondents have not followed the Model Tender Invitation. It is the specific contention taken by the learned Advocate General that the Model Tender Invitation merely provides the guidelines for issuance of the tender notice. However, it is for the concerned respondent/authorities to prescribe the conditions of tender.

22. We have gone through the impugned tender notices issued by the respondent-authority; the same cannot be termed as arbitrary or *mala fide* or irrational. It is for the employer/authority to prescribe the conditions of the tender and it appears that looking at the urgency of the matter, as the NIT in question is related to the work in respect of voter list/electoral roll/revision of voter list and its upgradation etc., the authority has thought it fit to issue a short-term NIT by prescribing the conditions therein.

23. We are of the view that this Court cannot sit in appeal over the decision taken by the respondent-authority. We are of the view that the scope of interference in such type of contractual or commercial matters is very limited.

24. We are, therefore, of the view that no case is



made out by the petitioner to interfere with the same.

25. Accordingly, the petition is dismissed.

26. Interlocutory application(s), if any, shall also stand disposed of.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

Aditya/Pawan

AFR/NAFR	A.F.R.
CAV DATE	N/A
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