IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8728 of 2026

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M/s. SEPL - LLC Sphere, a Joint Venture Consortium, acting through its Lead Member, Shanti Enggicon Private Limited, having its head office at Plot No. S11 & S12, Swarn City, Darri Road, Korba, District - Korba, through its Authorized Signatory, Sourav Ghosh, S/o Late Shri Gautam Ghosh, aged about 35 years, resident of LIG-140, Dr. R.P. Nagar, Phase II, Korba, Chhattisgarh.

... ... Petitioner/s

Versus

1. Union of India Through the Secretary, Railway Board, Ministry of Railways, Government of India, Rail Bhawan, 1. Raisina Road, New Delhi-110001, India.
2. The Chief Administrative Officer (Construction), East Central Railway, East Central Railway Zonal Headquarters, Mahendrughat, Patna, Bihar.
3. The Chief Engineer (Construction), East Central Railway, East Central Railway Zonal Headquarters, Mahendrughat, Patna, Bihar.
4. KCC-Buildcon Private Limited, Through its Director, having registered address at 8th Floor, Tower A, M3M Urbana Business Park, Sector 67, Gurugram Haryana

... ... Respondent/s

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Appearance :

For the Petitioner	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Avinash Kumar Singh, Advocate
For the UOI	:	Mr. Kumar Priya Ranjan, Advocate
		Mr. Sudarshan Bharadwaj, Advocate
		Mr. Sandeep Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

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ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-09-2026

This petition under Article 226 of the Constitution of India has been filed challenging the rejection of the petitioner's bid, as communicated on 02.06.2026 by the respondent Chief Engineer (Construction), East Central Railway (Respondent No. 3) in respect of a tender issued on 28.06.2025.

2. Further, a direction is sought to set aside the result of the aforesaid tender with a further prayer to consider the technical bid of the petitioner and evaluate the same.

3. At the outset, we may state that the impugned communication, as sent to the petitioner by the Respondent No. 3 at Page-29 of the Paper Book states the following:-

> *"Your Techno-Commercial Bid against Tender No. ECR-CAO-C-N-EPC-08-25-26, which was due on 30-SEP-2025 14:30:00 Hrs has been found technically unsuitable due to following reasons:*
> *Comments: Bid is not signed/submitted by authorized person. Hence rejected."*

4. The petitioner has taken various grounds to challenge the said decision, which can be summed up as under:-

(1) The rejection of the petitioner's technical bid is arbitrary, unreasonable and contrary to the

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express terms of the tender document, inasmuch as the petitioner had duly disclosed the name of the Authorized Signatory; the relevant power of attorney documents; the joint venture authorization and the Digital Signature Certificate particulars, in the prescribed formats.

(2) The respondents have failed to give a harmonious and purposive construction to Clause 2.10, 2.14.1.1, 2.1.5 and 2.1.6 of the RFP, which, when read together, clearly permit submission of the bid by the Authorized Signatory supported by the prescribed powers of attorney, even where the Digital Signature Certificate is in the name of the lead member/organization or the person delegating such authority.

(3) The petitioner has also complied with the requirements under Clauses 2.1.5 and 2.1.6 by submitting the requisite authorizations and once such foundational documents are on record, the technical bid could not have been rejected.

(4) The respondents were under an obligation to seek clarification in relation to the technical bid,

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which they have not sought.

(5) The petitioner having been eligible at the earliest stage of physical verification/submission of documents, as communicated by E-mail dated 08.10.2025, the subsequent rejection is arbitrary.

(6). Even if any defects are there, the same were curable defects and an outright rejection is arbitrary.

(7) The impugned action of the respondents has caused great prejudice not only to the petitioner but also to the public interest embedded in a fair, transparent and competitive tender process.

(8). The test of responsiveness under the tender condition had to be complied on the basis of substance of compliance and materials actually furnished by the petitioner and not by one expression in the impugned communication divorced from Appendix I-A, Appendix II, Appendix III, the disclosed Digital Signature Certificate particulars and the functioning requirements of IREPS portal.

5. Having noted the broad grounds on which the

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impugned action has been challenged, Mr. P.K. Shahi, learned Senior Counsel for the petitioner, reiterating the same grounds as raised in the petition, has also by drawing our attention to the impugned communication at Page 29 of the Paper Book, submits that the ground as stated in the said communication being the only ground on which the petitioner was found to be technically unsuitable, the respondents cannot now justify the impugned action on other grounds as done in the counter affidavit.

6. In support of his submission, he has taken us through some of the documents annexed along with the writ petition. According to him the bid of the petitioner, is as per the tender complying all the clauses. He states that the impugned action needs to be set aside being arbitrary and illegal.

7. On the other hand, learned counsel appearing for the respondents, by drawing our attention to the counter affidavit filed by the Respondent Nos. 1 to 3 would submit that the decision of the Tender Committee to evaluate the tender as per the RFP issued by the Ministry of Railways, is being followed all over the Indian Railways. The agencies are supposed to go through the RFP and quote their offer accordingly.

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8. In the instant tender, there were 14 tenderers, out of which 04 tenderers were found unresponsive or non-responsive due to various reasons for not following the RFP instructions including the petitioner herein.

9. In fact, the 03 non-responsive tenderers have not made any complaint against their rejection. It is only the petitioner who complained, but the fact remains, the petitioner has failed to read and understand the RFP and misinterpreted the instructions. The tender has been finalized and offered to the Respondent No. 4.

10. According to him, the ground for rejection of the petitioner's offer is not signing the Bid submission digitally by the Authorized Signatory, which is mandated as per Appendix-II/III, and hence violated Clause 2.10.2, 2.14.2.3 and 2.14.1.1, is justified.

11. He stated that Paragraph 1 of Clause 2.14.1.1 gives the details of the person/firm who can have Digital Signature and the second paragraph mandates that the Digital Signature should be in the name of Authorized Signatory as per Appendix II/III as authorized by the agency.

12. The petitioner failed to include the name of the Director in the Power of Attorney, as such could not have

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submitted the tender. That apart, according to him, the tender was rejected for non-submission of requisite certificate/undertaking for not submitting the Annual Audit Report for the financial year 2024-25. The same is in violation of Clause 2.2.2.7 (ii) of the RFP. The bid was non-responsive due to lack of information as contemplated under Clause 3.1.6.1 of the RFP. That apart, as per Clause 2.2.2.7(i), the agency had to submit the Audited Annual Report of last five completed financial years and Clause 2.2.2.7 (ii) states that if the latest financial year is not audited and bidder is unable to submit the same, the bidder has to submit the undertaking to this effect and statutory Auditor shall certify the same.

13. The petitioner failed to read the clause properly and also failed to submit the undertaking as desired. He submits, it is a very vital information to establish the minimum net worth of the company. Hence, the bid becomes non-responsive violating the said clause.

14. He has also drawn our attention to Page 95 of the counter affidavit wherein in Clauses (c) and (d) of the Tender Committee has taken the impugned decision in the following manner:-

> *"(c) (i) Shanti Enggicon Private Limited has submitted Audited Balance Sheet etc of*

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five financial year 2019-20 to 2023-24 instead of required period of 2020-21 to 2024-25. As per para 2.2.2.7 (ii) of RFP, In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided. However, it is noted that the bidder has not given an undertaking to this effect certified by auditor (for balance sheet etc, refer attachment AR 19-20 SEPL, AR 20-21 SEPL, AR 21-22 SEPL, AR 22-23 SEPL, AR 23-24 SEPL) which is violation of clause no. 2.2.2.7 (ii). There is lack of information as required by clause no. 3.1.6.1 (f) due to which the offer is non-responsive.

xxx xxx xxx

(d) (i) Shanti Enggicon Private Limited has submitted Power of Attorney in the format of Appendix-II in favour of Sri Sourav Ghose backed by Board Resolution held on 01.06.2023 (refer attachment Appendix-II Both)

(ii) LLC SPHERE has submitted Power of Attorney in the format of Appendix-II in favour of Sri sourabh Kumar backed by Board Resolution held on 25.05.2025 (refer attachment Appendix-II Both)

As per Appendix-III (as per format for POA for Lead Member of Consortium/Joint Venture) submitted by bidder, Shanti Enggicon Private Limited is the lead member of JV. Further Shanti Enggicon Private Limited (Lead Member) has given POA in format of Appendix-II in favour of Sri Sourav Ghose. ***But the Bid has digitally Signed and submitted on***

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> ***IREPS by Rahul Didwania who is not authorized by POA as per submitted Appendix III, which is violation of clause 2.10.2 and 2.14.2.3. and hence the Bid is non-Responsive as per clause 2.14.1.1.***
>
> ***In view of above, TC is off the opinion that offer of Of M/s SEPL-LLC SPHERE JV is invalid as offer is not submitted by authorised attorney of lead member of JV i.e., Sri Sourav Ghose, and the Bidder Shanti Enggicon Private Limited has not given an Audited undertaking for non-submission of AR 2024-25, and hence his offer of M/s SEPL-LLC SPHERE JV is non-responsive as stated above. Hence the not valid and rejected and no further discussion is required. (refer attachment Offer of M/s SEPL-LLC SPHERE JV)"***

15. We agree with the submissions as advanced by the learned counsel for the respondents. On a perusal of the rejoinder filed by the petitioner, it is noted the petitioner has not seriously contested the stand of the respondents in the counter affidavit. The law on the subject is very clear, inasmuch as the Court in exercise of its jurisdiction under Article 226 of the Constitution of India will not sit as an Appellate Authority over the decision of the Tender Committee and come to a different conclusion, more so when there are sufficient reasons to hold that the bid of the petitioner was not in accordance with the RFP.

16. We find no merit in the writ petition and the same

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is dismissed. No cost.

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

(V. Kameswar Rao, CJ)

(Sudhir Singh, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	21.09.2026
Transmission Date	

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