

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9448 of 2023

M/s INATSG (International Advance Technology and Service Group), A proprietorship firm having its registered office at Bank Colony, North Mandiri, Patna and office at Flat No. 44, 4th Floor, Jagat Balram Apartment besides Roti Restaurant Wali Gali, Opposite- A.N. College, Boring Road, Patna- 800013 through its Proprietor namely, Shri Rakesh Kumar, son of Late Narendra Kumar Sharan, aged about 40 years (Male), resident of Nirmala Kunj, Near Dwarika High School, North Mandiri, P.S.- Buddha Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Social Welfare Department, Government of Bihar at Patna
2. The Secretary, Social Welfare Department, Government of Bihar at Patna.
3. The Director-cum-Vice Chairperson, State Child Protection Society, Social Welfare Department, Bihar at Patna.
4. The Deputy Director, State Child Protection Society, Social Welfare Department, Bihar at Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanchay Srivastava
For the Respondent/s : Mr. P. K. Verma, Sr. Advocate, AAG-3
Mrs. Kumari Amrita (GP-3)
Mr. Mithilesh Kumar Upadhyay, AC to GP-3

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-09-2023

In the instant writ petition, the petitioner has prayed
for the following relief(s):-

“I. That the present writ application is being filed for issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of Certiorari or any other appropriate writ(s) for quashing and setting-aside Memo No. सबा०स०स (विविध) 05/ 2017 (अंश-7) 289



dated 25.04.2023 (contained in Annexure-P/6) by which the Tender No. 01/2022-23 dated 06.03.2023 P.R. No. 016377/22-23, in which the petitioner was declared as L1 Bidder fulfilling all the eligibility criteria and after completion of all formalities, has been cancelled without assigning any reasons whatsoever for the said cancellation of the said Tender;

II. That the present writ application is being filed for issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of mandamus for a direction to concerned respondents to assign Work Order to the petitioner in pursuance of the Tender No. 01/2022-23 dated 06.03.2023 in which after completing all the formalities the petitioner was declared as L1 Bidder;

III. That the present writ application is being filed for issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of Certiorari or any other appropriate writ for quashing at setting-aside the Fresh Tender dated 22.05.2023 (contained in Annexure-P/9) which has been issued after arbitrarily cancelling the earlier Tender No. 01/2022-23 for the same work with motive of stripping the petitioner which has been earlier declared as L1 Bidder from executing of the said earlier tender;

IV. That the present writ application is being filed for issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of mandamus for commanding the respondent authorities to forthwith withdraw the Tender dated 22.05.2023 (contained in Annexure-P/9) replacing the earlier cancelled Tender date 06.03.2023;

V. That the present writ application is



being filed for issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of mandamus or any other appropriate writ to grant ad interim ex parte stay over the operation of Memo No. रा०बा०सं०स (विविध) 05 / 2017 (अंश-7) 289 dated 25.04.2023 (contained in Annexure-P/6) by which the Tender No. 01/2022-23 dated 06.03.2023 P.R. No. 016377/22-23 has been cancelled without specifying any reasons;

VI. That the present writ application is being filed for issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of mandamus or any other appropriate writ to grant ad interim ex parte stay over the operation Tender dated 22.05.2023 (contained in Annexure-P/9) replacing the earlier cancelled tender date 06.03.2023;

VII. And for issuance of any other relief or reliefs for which the petitioner is entitled for.”

02. The Social Welfare Department, Government of Bihar, Patna floated Notice Inviting Tender (NIT) for selection of an agency for Annual Maintenance Contract (AMC) for CCTV Cameras installed in Child Care Institutions in various Districts of Bihar and for Central Server in Patna towards strengthening the Institutional Care Services for Children in the State of Bihar on 06.03.2023. Petitioner was L-1 bidder in the said NIT. The same was not finalized due to the price quoted by the petitioner a sum of Rs. 2,34,01,917/- (rupees two crore thirty four lakhs one thousand nine hundred seventeen) was on higher



side and it was cancelled on 25.04.2023.

03. Feeling aggrieved and dis-satisfied with the decision of the Social Welfare Department, the petitioner has presented this writ petition.

04. After filing of the present writ petition, pursuant to cancellation of earlier NIT dated 06.03.2023, on 22.05.2023 the Social Welfare Department proceeded to issue fresh tender by means of issuing NIT, in which the petitioner had not participated and second NIT dated 22.05.2023 was also cancelled on the score that single bidder had participated. Now, they have to go for fresh NIT.

05. Learned counsel for the petitioner submitted that cancellation of tender dated 06.03.2023 read with petitioner being L-1 tenderer is without assigning any reason. Further, the respondents have improved the reasons for cancellation of tender dated 06.03.2023 and the same cannot be appreciated in the light of Apex Court decisions in the cases of *Commissioner of Police, Bombay Vs. Gordhandas Bhanji*, reported in *1951 SCC 1088* and *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Ors.* reported in *(1978) 1 SCC 405*.

06. *Per-contra*, learned counsel for the respondents



resisted the aforesaid contentions and submitted that reasons have been assigned on 14.04.2023 in the Tender Committee and it is prior to filing of the present writ petition. The Official respondents have not improved the reasons for cancellation so as to attract the cited decisions. In other words, there is no improvised material for cancellation after 25.04.2023. Therefore, the cited decisions do not assist the petitioner.

07. Heard learned counsel for the respective parties.

08. Pursuant to NIT dated 06.03.2023, the petitioner was L-1 bidder. It was cancelled with reference to the total bid price quoted by the petitioner at Rs. 2,34,01,917/- and component-wise/product wise bid price of Rs. 2,51,41,915/- (both excluding GST).

09. We have perused the records. It is evident that in the year 2019, the very same petitioner, who had participated in the process of NIT including supply and installation of CCTV and other ancillary units and inclusive of maintenance for three years at the cost of 2,49,99,999/-. From the face of material information, it is crystal clear that price quoted by the petitioner at Rs. 2,51,41,915/- (excluding GST) for annual maintenance of existing CCTV Cameras and ancillary units or supporting infrastructures. The price quoted by the petitioner appears to be



an astronomical figure when compared with the earlier price which is inclusive of supply and installation of CCTV and ancillary units and 3 years maintainance. Therefore, the Tender Committee has rightly taken a decision to cancel the tender on 14.04.2023. The cited decisions do not assist the petitioner in the light of the fact that on 14.04.2023 itself the Tender Committee has taken decision while assigning the reasons. No doubt, in the impugned order dated 25.04.2023, reasons are silent. In such circumstances, the Court can call for the records and examine that the reasons have been assigned in the file or not. On this issue, it is necessary to take note of Apex Court's decision in the case of ***Governing Council of Kidwai Memorial Institute of Oncology Vs. Pandurang Godwalkar (Dr)***, reported in **(1992) 4 SCC 719**, wherein the Apex Court has taken note of the fact that in the absence of reasons assigned in the order, Court can always call for records and look into the reasons in support of the concerned impugned order.

10. Having regard to the fact that reasons have not been assigned in the Office Memo dated 25.04.2023 (Annexure P/6), we have summoned the records for the purpose of examining as to whether the reasons have been assigned before 25.04.2023 or not? It is evident from Annexure R/2 dated



14.04.2023 to the counter affidavit filed on behalf of respondents, the Tender Committee has taken a decision while assigning reason. That apart, further development in respect of issuance of second NIT on 25.05.2023 in which the petitioner had not participated and sole bidder had participated and the same was cancelled. Now the official respondents are going for the fresh tender.

11. In view of these facts and circumstances, the petitioner has not made out a case so as to interfere with the order/office memo dated 25.04.2023 (Annexure-P/6) and consequential relief.

12. Accordingly, the present writ petition stands dismissed.

13. Dismissal of the present petition would not be a hurdle for the petitioner to participate in the future NIT.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
Himanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2023
Transmission Date	NA

