

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12740 of 2025

M/S Trijal Construction Pvt. Ltd. through its Director Pratik Kumar (Male), aged about 33 Years, Son of Rajesh Nandan Sharma, Resident of Flat No. 202, Satya Ganga Apartment, Ganga Market, Shivpuri, P.S.- Shaastri Nagar, District Patna.

... .. Petitioner

Versus

1. Union of India through its Secretary, Ministry of Communications Department of Telecommunications Sanchar Bhawan, 20 Ashoka Road New Delhi- 110001.
2. Bharat Sanchar Nigam Limited (BSNL), through its General Manager, 2nd Floor, ETR Building, Sanchar Parisar, Buddha Marg, Patna- 800001.
3. Bharat Sanchar Nigam Limited (BSNL), through its Chief General Manager, Core Network Transmission (East), Telephone Bhawan, 7th Floor, 34 BBD Bag, Kolkata- 70001.
4. Government of E-Marketplace (Gem Portal), through its Chief Executive Officer, Office at Jeevan Tara Building, 5- Sansad Marg, Near Patel Marg, New Delhi.

... .. Respondents

Appearance :

For the Petitioner : Mr. Madhav Raj, Advocate
For the UOI : Mr. Arvind Kumar, CGC
For the Respondent No.1 : Mr. Sujeet Kumar Sinha, Advocate
For the Respondent Nos.2&3 : Mr. Harendra Prasad Singh, Advocate
For the Respondents : Mr. Additional Solicitor General

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

7 28-04-2026

Heard learned counsel for the parties.

2. In the present petition, the petitioner has prayed for the following relief(s):-

“A. A writ in the nature of CERTIORARI or any other appropriate writ order/s direction/s quashing the following:

i. The order/decision dated 23.05.2025 passed



by Respondent No.3 whereby the Petitioner was disqualified from the technical bid of Notice Inviting Tender (for short "N.I.T.") No. CNTxE/MMC/NIT/OFC Patchwork/Patna/2024-25/7, Bid No. GEM/2025/B/5878504 dated 31.01.2025 citing the reason that "Copies of relevant contracts/orders along with bid in support of having provided services during each of the financial year not submitted.

B. A writ in the nature of MANDAMUS or any other appropriate writ/s, order/s, commanding the Respondents for the following:

i. To hold the order contained in Annexure-P/3 to be non-est and nullity in the eye of law.

ii. To treat the Petitioner to be technically eligible as per the terms of the N.I.T and is fit to be considered for financial bid.

iii. To hold an independent and impartial inquiry into the fairness and transparency of the tender process to ensure principle of competitiveness and the same is to be without arbitrariness and favouritism at all.

iv. To restrain the respondent authorities from proceeding with the tender process i.e. from opening the financial bid, from allotting the work order etc. till disposal of the present writ application.

C. To any other relief/s to which the Petitioner is found entitled to."

3. The present case arises out of a tender process



initiated by the respondents through the Government e-Marketplace portal vide Bid No. GEM/2025/B/5878504 dated 31.01.2025 for execution of Optical Fibre Cable (OFC) laying and associated works for Patna Division. The petitioner, a registered company engaged in works contract, participated in the bidding process by submitting its bid along with requisite documents, including experience certificates and copies of relevant contracts/orders. Upon evaluation of the technical bids, the petitioner was declared disqualified on the ground that copies of relevant contracts/orders in support of services rendered during each financial year were not submitted.

4. Learned counsel for the petitioner submits that the disqualification is arbitrary and unsustainable, as all requisite documents, including relevant contracts/orders, were duly furnished. It is further submitted that despite representations, no reconsideration was made, reflecting non-application of mind and violation of principles of fairness. Reliance is placed on *Jagdish Mandal v. State of Orissa* and *Poddar Steel Corporation v. Ganesh Engineering Works* to contend that arbitrary and hyper-technical rejection in tender matters is liable to be interfered with in judicial review.

5. *Per contra*, learned counsel for the respondents



submits that the petitioner failed to comply with the mandatory requirement of uploading supporting work orders alongwith experience certificates. It is further submitted that the representation of the petitioner were duly considered, and upon verification, it was found that the requisite work orders had not been uploaded within the stipulated time. It is further submitted that present writ petition has become infructuous as the bid validity period of 150 days from 21.02.2025 has already expired in July 2025, and no relief can now be granted in respect of the concluded tender process.

6. The limited issue which arises for consideration is whether any interference is warranted by this Court in exercise of its writ jurisdiction with the impugned order of disqualification passed by the respondent authority.

7. Upon consideration of the rival submissions and materials available on record, it is apparent that the impugned order dated 23.05.2025 has been passed on account of non-compliance with the mandatory conditions stipulated in the Notice Inviting Tender bearing Bid No. GEM/2025/B/5878504 dated 31.01.2025.

8. As per the terms of the NIT, particularly the eligibility/technical qualification clause (requiring submission



of “copies of relevant contracts/work orders along with supporting experience certificates for each of the financial years”), the bidder was under an obligation to upload complete documentary proof in support of past experience. From the record, it transpires that although the petitioner uploaded certain documents such as agreements/experience certificates, the corresponding work orders, which constituted an essential component of the eligibility condition, were not furnished within the stipulated time.

9. It further appears that the petitioner had raised objections/representations against the said disqualification. The records indicate that the competent authority, upon receipt of such representation, called for a report from the concerned department. In the said report, it was specifically observed that the petitioner had failed to upload the requisite work orders corresponding to the experience certificates for the relevant financial years, and therefore, the bid was found to be non-responsive to the mandatory requirements of the NIT. The decision to disqualify the petitioner was thus taken upon due consideration of the materials on record and cannot be said to suffer from non-application of mind.

10. At this juncture, it is also relevant to note that as



per the NIT conditions, the bid validity period was 150 days from the bid end date i.e., 21.02.2025, which admittedly expired in July, 2025. The bid validity period defines the time frame during which the bid remains open for acceptance and enforceable in law. Upon expiry of the said period, the bid loses its legal sanctity, and no vested or enforceable right survives in favour of the bidder.

11. Even if the contention of the petitioner regarding wrongful technical disqualification is taken into consideration, this Court finds that no effective or workable relief can now be granted, as the validity of the bid itself has lapsed. Any direction for reconsideration of the bid or participation in the tender process would be rendered impracticable and legally untenable at this stage.

12. Learned counsel for the petitioner has relied upon *Jagdish Mandal v. State of Orissa* to contend that judicial review is permissible in cases of arbitrariness, and upon *Poddar Steel Corporation v. Ganesh Engineering Works* to submit that non-essential tender conditions ought not to be applied with undue rigidity. There can be no dispute with the aforesaid propositions. However, the same do not advance the case of the petitioner in the present factual matrix, inasmuch as the issue



herein is no longer confined to the nature of the condition or its compliance, but rather to the maintainability and survivability of the writ petition itself after expiry of the bid validity period. Once the tender process has lost its operative life, the question as to whether the disqualification was justified on a strict or liberal interpretation of tender conditions becomes largely academic.

13. It is also well settled that the author of the tender is the best judge of its requirements and the interpretation of its terms. In *Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corporation Ltd. reported in (2016) 16 SCC 818*, the Hon'ble Supreme Court held that the employer's understanding of its tender conditions must be given due deference unless found to be arbitrary or perverse. The relevant part of the said order reads as follows:

“15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents



that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given.”

14. Similarly, in **Montecarlo Ltd. v. NTPC Ltd.** reported in **(2016) 15 SCC 272**, it has been reiterated that the authority issuing the tender is best placed to interpret its terms. The relevant part of the said order reads as follows:

“26. We respectfully concur with the aforesaid statement of law. We have reasons to do so. In the present scenario, tenders are floated and offers are invited for highly complex technical subjects. It requires understanding and appreciation of the nature of work and the purpose it is going to serve. It is common knowledge in the competitive commercial field that technical bids pursuant to the notice inviting tenders are scrutinised by the technical experts and sometimes third-party assistance from those unconnected with the owner's organisation is taken. This ensures objectivity. Bidder's expertise and technical capability and capacity must be assessed by the experts. In the matters of financial assessment, consultants are appointed. It is because to check and ascertain that technical ability and the financial feasibility have sanguinity and are workable and realistic. There is a multi-prong complex approach; highly technical in nature. The tenders where public largesse is put to auction stand on a different compartment. Tender with which we are concerned, is not comparable to any scheme for allotment. This arena which we have referred requires technical expertise. Parameters applied are different. Its aim is to achieve high



degree of perfection in execution and adherence to the time schedule. But, that does not mean, these tenders will escape scrutiny of judicial review. Exercise of power of judicial review would be called for if the approach is arbitrary or mala fide or procedure adopted is meant to favour one. The decision-making process should clearly show that the said maladies are kept at bay. But where a decision is taken that is manifestly in consonance with the language of the tender document or subserves the purpose for which the tender is floated, the court should follow the principle of restraint. Technical evaluation or comparison by the court would be impermissible. The principle that is applied to scan and understand an ordinary instrument relatable to contract in other spheres has to be treated differently than interpreting and appreciating tender documents relating to technical works and projects requiring special skills. The owner should be allowed to carry out the purpose and there has to be allowance of free play in the joints.”

15. It is equally well settled that writ jurisdiction is not to be exercised in cases where the relief sought has become incapable of being granted. Though often considered in the context of public interest, the principle equally applies where the lis itself has ceased to exist in practical terms.

16. In ***Michigan Rubber (India) Ltd. v. State of Karnataka*** reported in ***(2012) 8 SCC 216***, the Hon’ble Supreme



Court has emphasized that interference in tender matters is unwarranted unless the action is arbitrary and affects public interest. The relevant part of the said order reads as follows:

24. Therefore, a court before interfering in tender or contractual matters, in exercise of power of judicial review, should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone; or whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached"?

And

(ii) Whether the public interest is affected?

If the answers to the above questions are in the negative, then there should be no interference under Article 226."

17. In the present case, this Court finds that the disqualification of the petitioner is founded upon non-compliance with a mandatory condition of the NIT, and the same has been arrived at after due consideration of the petitioner's representation. Moreover, with the expiry of the bid validity period, no effective or enforceable relief can now be granted, and any adjudication on merits would be rendered purely academic.

18. Accordingly, the present writ application stands



dismissed.

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

(Sudhir Singh, J.)

(Shailendra Singh, J.)

*Gaurav Kumar/-
A.F.R.*

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