

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16154 of 2025

M/s Energy United India Private Limited, a company registered under the provisions of Indian Companies Act 1956, having its registered address at 2H/7 Bahadurpur Housing Colony, Kankarbagh, Patna, Bihar-800026 through its Director, Prateek Chaurasia, son of Pradeep Kumar, aged about 37 years, Gender Male, resident of 2H/7, Bahadurpur Housing Colony, Kankarbagh, Patna - 800026.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Energy, Government of Bihar.
2. The Principal Secretary, Department of Energy, Government of Bihar, Old Secretariat, Patna.
3. The Bihar Renewable Energy Development Agency, through its Chairman, Vidyut Bhawan, Building No 2, 2nd Floor, Bailey Road, Patna-800001.
4. The Chairman, Bihar Renewable Energy Development Authority Agency, Vidyut Bhawan, Building No 2, 2nd Floor, Bailey Road, Patna-800001.
5. The Director, Bihar Renewable Energy Development Authority Agency, through its Chairman, Vidyut Bhawan, Building No 2, 2nd Floor, Bailey Road, Patna-800001.
6. The Project Director, Bihar Renewable Energy Development Authority Agency, through its Chairman, Vidyut Bhawan, Building No 2, 2nd Floor, Bailey Road, Patna-800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nikhil Kumar Agrawal, Advocate Ms. Aditi Hansaria, Advocate Mr. Keshav Bhardwaj, Advocate
For the State	:	Mr. Advocate General Mr. Yogendra Pd. Sinha, AAG-7
For the BREDA	:	Mr. Kunal Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RANJAN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 17-06-2026

The present writ application has been filed for the following reliefs:



"i) To issue an appropriate writ/ order/ direction in the nature of certiorari quashing the notice dated 18.09.2025 as contained in letter no 2263 dated 18.09.2025 (received through email on 22.09.2025) [Annexure-P/18] whereby and whereunder the Respondent No 6 has, after execution of contract and after commencement of work, unilaterally and illegally terminated the e-tender dated 24.04.2024 having EoI No. BREDA/ TENDER/ SPV/ GC RTPV/01kWp-500kWp /08/2023-24;

ii) To issue an appropriate writ/order/direction in the nature of Mandamus commanding the Respondents to produce the original departmental file notings on the basis of which the impugned notice 18.09.2025 was issued;

iii) To issue an appropriate writ/ order/ direction in the nature of Certiorari quashing the said file notings/ reasons on the basis of which the impugned notice 18.09.2025 has been issued;

iv) To issue an appropriate writ/ order/ direction in the nature of Mandamus commanding the Respondents to immediately restore the contract and issue particular work orders with respect to the allocated districts to the Petitioner;

v) To any other relief or reliefs for which the Petitioner is found to be entitled in the facts and circumstances of the case."

2. The brief facts of the present case are that respondent-Bihar Renewable Energy Development Agency (BREDA) issued an Expression of Interest (EOI) with EOI No. BREDA /Tender /SPV /GC RTPV /01kWp-500kWp /08 /2023-24 dated 24.04.2024 for the empanelment of agencies for the



design, supply, erection, testing, and commissioning of Grid Connected Rooftop Solar Power Plants at various government buildings in the State of Bihar.

3. The petitioner took part in the bidding procedure. The petitioner was asked to match the L-1 rate when the financial bid opened, and upon providing its approval, it received a Letter of Intent (Letter No. 320, dated 10.02.2025). Following that, on February 17, 2025, the parties signed an agreement designating the petitioner as an executing agency under the aforementioned EOI.

4. Pursuant to the execution of agreement, the petitioner took part in BREDA's district distribution process on April 11, 2025, and was given the districts of Purnia, Jehanabad, and Madhubani. Pursuant thereto, the respondents instructed the petitioner to carry out site assessments and other preparation tasks concerning the designated districts.

5. The petitioner claims that no particular work order was issued even though the respondents completed the questionnaires and followed their instructions. Rather, on September 18, 2025, an E- Tender Cancellation Notice was issued, whereby the aforesaid EOI/tender was cancelled with immediate effect.



6. Learned counsel for the petitioner submits that the tender process had culminated in a concluded contract upon issuance of the Letter of Intent dated 10.02.2025 and execution of the agreement dated 17.02.2025. Once the parties had entered into a binding contractual relationship, the respondents could not have proceeded to cancel the EOI itself.

7. It is further submitted that the parties had already acted upon the agreement. The petitioner had been allotted districts and was directed by the respondents to undertake surveys and other preparatory activities, which were duly completed. Consequently, the respondents were estopped from cancelling the tender in a summary manner.

8. Learned counsel submits that the impugned notice does not disclose any reason except a vague reference to “unavoidable circumstances”. No material has been disclosed to demonstrate any public interest or administrative exigency necessitating cancellation of the EOI.

9. It is further submitted that no show-cause notice or opportunity of hearing was afforded to the petitioner prior to issuance of the impugned notice and, therefore, the action is in violation of the principles of natural justice.

10. Per contra, learned counsel appearing for the



respondents submits that the impugned decision is neither arbitrary nor illegal and has been taken for *bona fide* administrative reasons.

11. In this regard, reliance has been placed upon paragraph Nos. 10 and 11 of the counter affidavit, which read as follows:

“10. That formal request seeking budget approval were sent to Energy Department vide Letters No. 781, dated 08.05.2024, 1817, dated 21.10.2024 and 487, dated 25.02.2025 and the detailed proposal for approval of enhancement of sanctioned capacity and sanctioned amount was duly submitted to the Energy Department vide Letter No. 1079, dated 21.04.2025.

11. That it is further relevant to state here that as the requisite approval for enhanced capacity and sanctioned amount could not be obtained from the competent authority which was very much necessary to proceed further with the implementation of the EoI, therefore, no work orders were issued to any of the empanelled agencies.”

12. Learned counsel further submits that implementation of the project was dependent upon approval of the enhanced project capacity and corresponding financial sanction from the competent authority. Since such approval could not be obtained, no work order was issued to any of the empanelled agencies.

13. It is further submitted that the EOI itself reserved



to BREDA the right to cancel or withdraw the tender process at any stage. In this regard, reliance has been placed upon Clause 3.15 and Clause 3.15.1 of the EOI.

14. Referring to the aforesaid clauses, learned counsel submits that the petitioner participated in the tender process with full knowledge of the terms of the EOI and, therefore, cannot question the exercise of power expressly reserved thereunder.

15. It is further submitted that cancellation of the EOI was a policy decision taken in larger public interest owing to the absence of requisite approval and sanctioned funds. The decision was uniformly applied to all empanelled agencies and was not directed against the petitioner alone. It is thus contended that no enforceable right accrued in favour of the petitioner warranting interference by this Court in exercise of its writ jurisdiction.

16. The principal issue which falls for consideration is whether the impugned cancellation of EOI No. BREDA/Tender/SPV/GCRTPV/01kWp-500kWp/08/2023-24 is sustainable in law in view of the powers reserved to BREDA under Clauses 3.15 and 3.15.1 of the EOI.

17. Having heard learned counsel for the parties and



upon consideration of the pleadings and materials brought on record, this Court finds that the principal challenge in the present writ petition is to the cancellation of EOI No. BREDA/Tender/ SPV/ GC RTPV/ 01kWp-500kWp/ 08/ 2023-24 vide Letter No. 2263 dated 18.09.2025. The petitioner's case rests on the premise that once the Letter of Intent had been issued and the agreement dated 17.02.2025 had been executed, the respondents were denuded of the authority to cancel the EOI. It has further been contended that the impugned action is arbitrary, particularly since the cancellation notice does not disclose any reasons.

18. At the outset, it would be apposite to examine the terms governing the EOI itself. Clauses 3.15 and 3.15.1 of the EOI, relied upon by the respondents, expressly reserve unto BREDA the right to withdraw, modify, annul or cancel the EOI process at any stage without assigning any reason and without incurring any liability towards participating bidders. The relevant clause is reproduced hereinbelow:

***“3.15 RIGHT TO WITHDRAW
THE EOI AND TO REJECT ANY BID.***

3.15.1 This EOI may be withdrawn or cancelled by the BREDA at any time without assigning any reasons thereof. The BREDA further reserves the right, at its complete discretion, to reject any or all the Bids without assigning any reasons



whatsoever and without incurring any liability on any account.”

19. The petitioner admittedly participated in the tender process with full knowledge of the aforesaid stipulations and accepted the terms and conditions thereof without any protest. It is well settled that a bidder who consciously participates in a tender process is bound by the terms governing such process and cannot subsequently seek to avoid their consequences. Therefore, once the EOI itself reserved a power of cancellation, the exercise of such power cannot be faulted merely on the ground that the cancellation notice does not contain elaborate reasons.

20. However, the matter does not rest solely on the contractual stipulations. Though the respondents were not obligated under the EOI to assign reasons while exercising the power of cancellation, paragraph Nos. 10 and 11 of the counter affidavit disclose the circumstances which led to the impugned decision. The said paragraphs reveal that repeated communications were addressed to the Energy Department seeking approval for enhancement of project capacity and sanction of the corresponding amount. The requisite approval and financial sanction, however, could not be obtained from the



competent authority. Consequently, according to the respondents, the project itself could not be taken forward and no work order could be issued to any of the empanelled agencies.

21. The aforesaid decision appears to have been founded upon administrative and financial considerations concerning implementation of the project and not upon any allegation or default attributable to the petitioner. Significantly, the cancellation was not confined to the petitioner alone, but was applied uniformly to all empanelled agencies. Such action bears the characteristics of an administrative decision taken in relation to the project itself rather than a punitive measure directed against any individual contractor.

22. The submission advanced on behalf of the petitioner that execution of the agreement dated 17.02.2025 created an indefeasible right in its favour also does not merit acceptance. A perusal of Article 7.0 of the agreement demonstrates that the contractor was required to organize its resources and complete the work within 150 days from the date of issuance of a particular work order. Thus, issuance of a specific work order constituted the triggering event for commencement of the execution phase of the project.

“Article - 7.0-Contract Schedule

Time is the essence of Contract and shall be



strictly adhered to. The Contractor shall so organize its resources and perform its work as to complete it within a period of 150 days from the date of issuance of particular work order and as per the Projects Completion Schedule forming part of the Bid submitted by the Contractor subject to further modifications/changes as may be mutually agreed to between the BREDA and the Contractor.”

23. Admittedly, no particular work order was ever issued in favour of the petitioner. Although the petitioner may have participated in district allocation proceedings and undertaken certain preparatory activities including site surveys pursuant to the directions issued by BREDA, the stage contemplated under the agreement for actual execution of the work had admittedly not commenced. In absence of issuance of a work order, it cannot be said that an accrued or vested right had crystallized in favour of the petitioner so as to compel continuation of the project irrespective of subsequent administrative and financial developments.

24. In this regard, the judgment of the Hon'ble Supreme Court in *Maa Binda Express Carrier & Anr. v. North-East Frontier Railway & Ors.*, reported in (2014) 3 SCC 760 is instructive. The Supreme Court observed that a bidder merely possesses a right to fair, equal and non-discriminatory treatment and does not acquire a vested right to insist upon



award of the contract. The relevant part of the said order reads as follows:

“8. The scope of judicial review in matters relating to award of contracts by the State and its instrumentalities is settled by a long line of decisions of this Court. While these decisions clearly recognise that power exercised by the Government and its instrumentalities in regard to allotment of contract is subject to judicial review at the instance of an aggrieved party, submission of a tender in response to a notice inviting such tenders is no more than making an offer which the State or its agencies are under no obligation to accept. The bidders participating in the tender process cannot, therefore, insist that their tenders should be accepted simply because a given tender is the highest or lowest depending upon whether the contract is for sale of public property or for execution of works on behalf of the Government. All that participating bidders are entitled to is a fair, equal and non-discriminatory treatment in the matter of evaluation of their tenders. It is also fairly well settled that award of a contract is essentially a commercial transaction which must be determined on the basis of consideration that are relevant to such commercial decision. This implies that terms subject to which tenders are invited are not open to the judicial scrutiny unless it is found that the same have been tailor-made to benefit any particular tenderer or class of tenderers. So also, the authority inviting tenders can enter into negotiations or grant relaxation for bona fide and cogent reasons provided such relaxation is permissible under the terms governing the tender process.”

25. The doctrine of legitimate expectation, relied upon by the petitioner, also cannot advance its case. Legitimate expectation may entitle a party to fairness in decision-making; however, it cannot override the express terms governing the



tender process nor can it compel the State to proceed with a project which, according to the record, lacked the requisite approval and financial sanction.

26. This Court is also unable to accept the contention that the impugned action is vitiated by arbitrariness. No material has been brought on record to demonstrate *mala fides*, favouritism, colourable exercise of power or any attempt to confer undue benefit upon a third party. On the contrary, the materials placed before the Court indicate that the decision was preceded by the inability of the respondents to obtain the requisite administrative approval and financial sanction necessary for implementation of the project.

27. In light of the aforesaid discussion, therefore, this Court is of the considered view that the respondents cannot be said to have acted beyond the terms of the EOI or have exercised their powers in an arbitrary or unreasonable manner. The power of cancellation was expressly reserved under Clauses 3.15 and 3.15.1 of the EOI and the circumstances subsequently disclosed in the counter affidavit furnish a rational and *bona fide* basis for exercise of such power.

28. It has further been submitted on behalf of the petitioner that, pursuant to the agreement, certain expenditures



were incurred by it in connection with the site survey and other preparatory activities, as reflected from Annexures-P/10 and P/11. If so advised, the petitioner shall be at liberty to pursue such claim, if any, before a court of competent civil jurisdiction in accordance with law.

29. Considering the facts and circumstances of the case, and particularly in view of the fact that the employer had expressly reserved the right under Clauses 3.15 and 3.15.1 of the EOI/NIT to cancel the tender process, this Court finds no merit in the present writ application.

30. Accordingly, the present writ application stands dismissed.

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

(Sudhir Singh, J)

(Ranjan Kumar Jha, J)

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AFR/NAFR	AFR
CAV DATE	
Uploading Date	29.06.2026
Transmission Date	

