# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.2478 of 2026**

**CNR No. BRHC010105982026**

==========

Basant Singh @ Basant Singh Rajput the Proprietor of Magadh Samrajya (Registered under MSME), situated at Uchit Niwas, Kachuara Road, Patna-800030, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Science, Technology and Technical Education, Government of Bihar.
2. Director, BCST, IGSC Planetarium, Patna, Bihar.
3. Project Director, BCST, IGSC Planetarium, Patna, Bihar.
4. Avinash Dhanar, Proprietor, M/S- Aadhamar Solutions Pvt. Ltd., R/v House No 36, Indrapuri Road No. 5A, P.O- Keshri Nagar Patliputra, Patna- 800024, Bihar.

... ... Respondent/s

==========

**Appearance :**
For the Petitioner/s : Mr. Rohit Kumar, Adv.
For the Respondent/s : Mr. P K Verma, AAG-3
Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

==========

**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**
**(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)**

**Date : 07-10-2026**

Heard the parties.

2. The petitioner, proprietor of M/s Magadh Samrajya Firm, registered under MSME Act, 2006, duly participated in the bidding process in pursuant to E-Proc Tender No. 118374 dated 20.11.2025, issued by the Bihar Council on Science and Technology (hereinafter referred to as “BCST”), inviting bids

WEB COPY

from experienced agencies for providing security guards at the IGSC Planetarium, Patna, and the Sub-Regional Science Centre, Bodh Gaya.

3. In response to the aforesaid NIT, the petitioner, through his firm, submitted a bid on 12.12.2025 along with the requisite documents and prescribed fee. A total of 20 bidders participated in the bidding process, including the petitioner. A pre-bid meeting was convened, during which clarifications and objections were invited, whereupon the petitioner submitted his objection.

4. In response thereto, the petitioner was granted three days' time to remove the objection and clarify the position. Pursuant thereto, the petitioner submitted letters containing details regarding ex-servicemen from the Army, BSF, ITBP, CRPF, CISF and Assam Rifles employed in his firm, along with documents relating to the average annual financial turnover for the financial years 2022–2023, 2023–2024 and 2024–2025, as well as an experience certificate for the purpose of technical evaluation.

5. It is the petitioner's contention that, despite the aforesaid submissions of the necessary papers, the respondent BCST informed his firm, vide communication dated 27.01.2026, that its bid stood disqualified during the evaluation of Cover-1

WEB COPY

on the grounds of non-submission of the HR/Self-certification regarding ex-servicemen on the agency's payroll and the turnover documents for the financial years 2022–2023, 2023–2024 and 2024–2025. The said communication dated 27.01.2026 has been assailed in the present writ petition.

6. Mr. Rohit Kumar, learned Advocate appearing on behalf of the petitioner, primarily submitted that, since the petitioner's firm is registered under the MSME Act, 2006, it is not legally required to appoint an HR Manager merely on account of its MSME status. Accordingly, the petitioner was under no obligation to furnish a certificate issued by an HR Manager regarding the engagement of ex-servicemen on the agency's payroll. Nevertheless, the petitioner had submitted a letter containing details of the ex-servicemen engaged by his firm. It is further submitted that the valid MSME registration certificate contained particulars relating to the average annual financial turnover and experience, which ought to have been duly considered by the respondents.

7. Learned Advocate for the petitioner further contended that the tender conditions do not mandate an MSME-registered proprietorship firm to maintain a separate HR department or appoint a designated HR Officer. Therefore, insistence upon an HR certification, despite the petitioner's

WEB COPY

submission of a letter containing details of ex-servicemen employed by his firm, amounts to the imposition of an extraneous requirement not contemplated under the tender conditions. It is also contended that the petitioner's disqualification on the ground of non-submission of turnover documents for the aforesaid financial years is wholly arbitrary, particularly when documentary evidence regarding his average annual financial turnover has already been furnished.

8. It is further argued that the impugned action of the respondents is contrary to the object and spirit of the MSME Act, 2006, and frustrates the legislative and policy objectives of promoting and encouraging the participation of MSMEs in public procurement processes.

9. Learned Advocate for the petitioner also alleged certain irregularities in the tendering and evaluation process. It is contended that, on the one hand, the petitioner has been disqualified for non-submission of documents which, according to him, could be furnished subsequently and which he had, in fact, submitted upon being asked to do so. On the other hand, the respondent authorities had illegally declared M/s Aadhamar Solution Pvt. Ltd. as the successful bidder, despite its alleged failure to submit the requisite self-certification regarding ex-servicemen on its payroll. According to the petitioner, this

WEB COPY

discrepancy is apparent from the pre-qualification criteria evaluation sheet, a copy of which has been brought on record as Annexure P/4.

10. Refuting the aforesaid submissions, Mr. P.K. Verma, learned Senior Advocate appearing on behalf of the respondents, referred to the tender invitation document and submitted that the tender conditions expressly stipulated that a bidder holding valid MSME registration with the Government of Bihar would be awarded full marks under the technical evaluation criteria relating to average annual financial turnover and experience. However, the petitioner had failed to furnish the requisite documents in accordance with the applicable tender conditions and the Bihar Purchase Preference Policy, 2024, as was expressly referred to in the tender invitation notice.

11. Learned Senior Advocate further contended that following the pre-bid meeting and the clarification of queries by the respondent authorities, the Technical Evaluation Committee evaluated the technical bids submitted by all participating bidders on 26.12.2025. A bare perusal of the evaluation chart, wherein the petitioner was placed at serial no. 10, would demonstrate that the requisite documents had not been submitted by him. In particular, the petitioner had failed to furnish the HR/Self-certification regarding ex-servicemen on the agency's

WEB COPY

payroll and the turnover documents for the financial years 2022–2023, 2023–2024 and 2024–2025.

12. It is further submitted that the aforesaid documents constituted mandatory requirements under Clauses 17 and 18 of the tender invitation document. The technical evaluation chart was uploaded to the government portal and made available to all participating bidders, including the petitioner, with an opportunity to submit their responses or objections within the stipulated period. Although the petitioner responded to the communication, he did not furnish any clarification with respect to the documents originally submitted with his bid. Instead, he sought to introduce fresh documents, which was impermissible under the terms of the tender. The Tender Evaluation Committee, consequently, disqualified the petitioner during the technical evaluation process.

13. This Court is also apprised, that upon completion of the technical evaluation, the financial bids were opened by the Tender Committee, whereafter M/s Aadhamar Solution Pvt. Ltd. was declared the L-1 bidder. Accordingly, the Tender Committee recommended for issuance of a work order in its favour, and it appears that a Letter of Intent was also issued.

14. Having considered the rival submissions advanced by learned Advocate/Senior Advocate appearing for the

WEB COPY

respective parties and upon perusal of the materials available on record, what is evident is that the petitioner's firm failed to furnish the requisite self-certification from the HR department, on the organization's letterhead, specifying the number of ex-servicemen on the agency's payroll, as required under the terms and conditions of the tender invitation notice. The petitioner also failed to furnish the requisite documents relating to the turnover for the financial years 2022–2023, 2023–2024 and 2024–2025, as prescribed under Clause 14.3 of the Request for Proposal (hereinafter referred to as the "RFP"). The relevant provisions of the RFP are reproduced hereinbelow:

> ***"14.3 Technical Bid Evaluation***
>
> *1. As part of the Technical Evaluation, in the first step, the Technical Bids will be examined to ascertain responsiveness of the Technical bids with the General Terms and Conditions of the Contract and Technical Requirements & Scope of Work as defined in the RFP.*
>
> *2. In the second step, the Technical Evaluation of the responses of the Bidders will be evaluated, based on Technical criteria set in this Bid Document.*
>
> *3. The Technical evaluation shall involve:*
>
> *a) Document-based evaluation of the Technical Bids*
>
> *4. The Purchaser will open the Commercial Bids of only Technically Qualified Bidders (TQB), in the presence of the representatives of the Technically Qualified Bidders who choose to attend, at the time, date and place, as decided by the Purchaser.*

WEB COPY

**Technical Evaluation Criteria: -**

| S. No. | Requirement | Criteria | Documents Required | Points |
|---|---|---|---|---|
| 1 | Average Annual Financial Turnover of last 3 years from Security business only. | Avg. Annual Financial Turnover:<br>>= 10 Crore – 30 Marks<br>>= 7.5 Cr – 20 Marks<br>>= 5.0 Crore – 10 Marks<br>For MSMEs/ startups with valid registration certificates as notified under Bihar Purchase Preference Policy,2024 subject to meeting of quality and technical specification. | CA certificate with valid UDIN number<br><br>Valid MSME/ startup registration certificate (in case of MSME/ startup) | 30 |
| 2 | No of ex-servicemen guards (having served in the Indian Army, BSF, ITBP, CRPF,CISF and Assam Rifles) on Payroll of the agency. | >= 100 Security Guards – 30 Marks<br>50-100 Security Guards – 20 Marks<br>Less than 50 Security Guards – 15 Marks | Self-certification from the HR on organization's letterhead | 30 |
| 3 | The agency must have minimum 3 projects in providing Security services to Central Govt./Any State govt. /PSUs /or any government agency . | Work order/Completion certification submitted for:<br>For 3-4 projects: 15 Marks<br>For 5-7 projects: 25 Marks<br>For 8 or more projects: 30 Marks<br><br>OR<br>for MSMEs/ startups with valid registration certificates as notified under Bihar Purchase Preference Policy,2024 subject to meeting of quality and technical specification. | Work Order/ Completion Certificate<br>OR<br>Valid MSME/ startup registration certificate (in case of MSME/ startup) | 30 |
| 4 | Minimum work | Single Work | Work Order/ | 10 |

WEB COPY

| | | | | |
|---|---|---|---|---|
| | executed for amount of INR 1 Crore in the last five Financial years as of 31st March 2025. | order/Completion certification submitted worth: - For INR 1 Crore – 2 Crore: 5 Marks More than INR 2 Crores: 30 Marks<br><br>OR<br>for MSMEs/ startups with valid registration certificates as notified under Bihar Purchase Preference Policy,2024 subject to meeting of quality and technical specification. | Completion Certificate OR Valid MSME/ startup registration certificate (in case of MSME/ startup) | |

***Note:- The bidders will have to get at least 70 marks to qualify the technical criteria."***

15. Apart from the deficiencies aforenoted, it is also evident from the materials on record that the petitioner neither clarified his position nor raised any objection before the Tender Evaluation Committee regarding the alleged irregularities now sought to be agitated in the present writ petition, despite having been afforded an opportunity to do so within the stipulated window period.

16. On the contrary, a counter-affidavit has been filed on behalf of respondent no. 5, wherein it has been categorically stated in paragraph 7 that all requisite documents were furnished within the prescribed period, including the HR self-certification regarding the engagement of ex-servicemen on the agency's payroll and the turnover certificates for the relevant financial

WEB COPY

years. It has further been asserted that these documents constituted mandatory requirements under the RFP.

17. Needless to emphasize, the terms and conditions of a tender document constitute the foundational framework governing the bidding process and are binding upon both the participating bidders and the authority issuing the tender. Compliance with such conditions, particularly those expressly stipulated as mandatory, cannot be dispensed with selectively or relaxed in a manner that compromises the principles of fairness, transparency and equality among competing bidders. Any departure from the prescribed requirements must be assessed in the context of the tender conditions and the applicable legal principles governing public procurement.

18. In this regard, it would be apposite to refer to the decision of the Hon'ble Supreme Court in the case of ***Central Coalfields Ltd & Anr. Vs. SLL-SML (Joint Venture Consortium) & Ors., (2016) 8 SCC 622***, wherein the Court observed that the employer is best suited to interpret the terms and conditions of a tender, and that such discretion must be exercised fairly, uniformly and without arbitrariness. Similarly, in ***Banshidhar Construction Private Limited Vs. Bharat Coking Coal Limited & Ors., (2024) 10 SCC 273***, the Hon'ble Supreme Court reiterated the principle that a bidder cannot

WEB COPY

ordinarily be permitted to cure a fundamental defect in its bid after the prescribed deadline for submission has expired, and that a mandatory tender condition cannot be waived or relaxed contrary to the governing terms.

19. In the present case, it is an admitted position that the petitioner furnished the HR/Self-certification regarding ex-servicemen on the agency's payroll and the turnover documents for the financial years 2022–2023, 2023–2024 and 2024–2025 only after the respondents had sought clarification regarding the deficiencies in his bid. The relevant stipulations contained in the RFP expressly prohibit the submission or acceptance of fresh documents beyond the prescribed date. Accordingly, what the respondent authorities could have permitted was a clarification of the documents already submitted, and not the subsequent introduction of documents that were required to accompany the original bid.

20. Once the petitioner failed to submit the requisite documents within the prescribed period and in accordance with the conditions stipulated in the RFP, he could not claim a right to have the deficiencies in his bid rectified by furnishing fresh documents at a later stage. The tender conditions were required to be applied uniformly to all participating bidders, and any relaxation in favour of the petitioner, contrary to the express

WEB COPY

stipulations of the RFP, could potentially prejudice the other bidders and undermine the fairness of the bidding process.

21. So far as the petitioner's contention regarding the successful bidder, M/s Aadhamar Solution Pvt. Ltd., is concerned, the petitioner has failed to establish, on the basis of the materials placed before this Court, that the respondent authorities acted arbitrarily or discriminatorily in evaluating the respective bids. In the absence of sufficient material demonstrating a violation of the tender conditions or unequal treatment by the Tender Evaluation Committee, the petitioner's allegations do not furnish a sustainable ground for interference with the impugned decision. In the facts and circumstances of the case, this Court finds no sufficient ground to hold that the respondents acted illegally or arbitrarily in disqualifying the petitioner.

22. Accordingly, the writ petition sans any merit and the same is dismissed.

**(V. Kameswar Rao, CJ)**

**(Harish Kumar, J)**

Shivank/Siddharth-

| | |
|---|---|
| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 13.10.2026 |
| **Transmission Date** | NA |

WEB COPY