



## **HIGH COURT OF UTTARAKHAND AT NAINITAL**

**HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA  
AND**

**HON'BLE SHRI JUSTICE SUBHASH UPADHYAY**

**14<sup>TH</sup> JULY, 2026**

### **WRIT PETITION (M/B) No. 569 of 2026**

1: G.S. Matiyani And Sons

--Petitioner

#### **Versus**

1: State Of Uttarakhand  
2: Superintending Engineer  
3: Executive Engineer  
4: Executive Engineer  
5: M/s Patni Engineering  
6: M/s Laxmi Datt Binwal

--Respondents

Counsel for the petitioner. : Mr. Ketan Joshi, learned counsel.

Counsel for respondent nos. 1 to 4. : Mr. J.C. Pande, learned Standing Counsel  
for the State of Uttarakhand.

#### **JUDGMENT : (per Shri Manoj Kumar Gupta, C.J.)**

1. The present writ petition is directed against the order of respondent no. 2 dated 24.06.2026, whereby the representation made by the petitioner dated 23.06.2026, against the rejection of his bid in the technical round, has been dismissed.

2. The petitioner had submitted a bid in pursuance of a Notice Inviting Tender dated 30.04.2026 for the construction of 75 meter span Steel Truss Bridge, Kathgodam to Ranibagh section of NH 87 (109) under Hon'ble Chief Minister announcement No. 550/2019 in Bhimtal Constituency, District Nainital. The bid of the petitioner has been rejected during the



technical evaluation by the Bid Scrutiny Committee for the following reason :-

"5 G.S. Matiyani As per Sec. IV, Cl 2.2 A.(d), the bidder should have executed the minimum quantities of at least 50% of peak annual rate of construction of the Principal items of works of the tendered works mentioned in bid in any one of the 5 (five) Financial years and Form Tech 9 of Sec. V requires the bidder to furnish financial year-wise experience. The bidder had executed work named Reconstruction of 70 M Span Steel Truss Motor Bridge at km 166 of Thal-Munsyari Motor Road over Haradiya Nala in Distt.Pithoragarh'in FY 2022-23 shown in Form Tech 9, but experience certificate of this work submitted by the bidder does not provide a financial year-wise bifurcation of the quantities executed and certificate depicts that the work was executed in between FY 2020-21 and FY 2022-23. Consequently, the particulars furnished in Form Tech-9 were neither supported nor corroborated by the experience certificate. The bidder is non-responsive on the basis of above mentioned ground due to non-adherence to the eligibility and qualification criteria mentioned in the bid documents as per Sec.II, Cl. 4.1."

3. Clause 2.2 A (d), which stipulates the qualification criteria, reads as follows :-

**"2.2 A (d)** The Bidder should have executed in any one of the 5 (five) financial years, the minimum quantities of atleast 50% of peak annual rate of costruction of the principal items of works of the tendered works: [insert type and quantity of principal item of the works to be executed]

For example:

Fabrication and Erection structural steel 369.86 50% of **=184.93 MT**

Reinforced cement concrete M15 and above Grade: 50% of 1633.66 **cum = 816.83 cum**

Plain Cement concrete: **50 % of 209.41Cum = 104.71cum**

Reinforcement Steel work: **50 % of 127.65 MT = 63.83 MT**"

4. It appears that, after the Bid Scrutiny Committee declared the bid of the petitioner as non-responsive, the petitioner filed a representation to the authorities, along with running bills and other documentary evidence to establish that



he had executed the minimum quantities of work every year as per the Standard Bidding Document.

5. The representation of the petitioner has been rejected by respondent no. 2 by impugned order dated 24.06.2026, reiterating that the Experience Certificate submitted by the petitioner did not specify the work undertaken by him in any particular financial year and, therefore, it was not possible for the Bid Scrutiny Committee to rely on the said certificate, or on the declaration given by the petitioner in Form Tech-9. It has also been observed that the documents submitted by the petitioner, to show that he had carried out the requisite work on an annual basis, cannot be examined after the bid was declared as non-responsive, as they were not part of the documents submitted, along with the bid.

6. Learned counsel for the petitioner does not dispute that the Experience Certificate submitted by the petitioner does not disclose the work undertaken by the petitioner on annual basis and, thus, it was not possible for the Bid Scrutiny Committee to adjudge the eligibility requirement, under Clause 2.2 A (d), from the Experience Certificate submitted by the petitioner, along with his bid. He, however, submits that, as per Clause 21.1 of SBD, the Bid Scrutiny Committee was having enough power to seek clarification in writing from the bidders



relating to the bid submitted by them. It is submitted that, in such circumstances, the Bid Scrutiny Committee should have called for the clarification from the petitioner, and which having not been done, its decision to declare the bid of the petitioner as non-responsive is not sustainable.

7. We have gone through the said clause and we find that the discretion given to the Bid Scrutiny Committee, vide Clause 22.1, is not unguided, but only limited to seeking information or documents, which are historical in nature like audited statements of accounts, tax clearance certificate, PAN, etc. The condition relating to furnishing of Experience Certificate, to adjudge the eligibility, was the essential requirement and the petitioner was aware of the fact that he had to submit experience certificate mentioning year-wise break-up to enable the department to adjudge the eligibility of the petitioner. Still, the petitioner did not file any such evidence with his bid.

8. In such circumstances, we find no fault in the decision of the Bid Scrutiny Committee in declaring the bid of the petitioner as 'non-responsive' or in declining to take notice of the documents submitted at a later stage.



9. The contract has already been settled in favour of respondent no. 6. The work appears to be of great public importance and of urgent nature, therefore, even otherwise, we are not inclined to interfere at this stage.

10. The writ petition is accordingly dismissed.

11. All pending applications stand disposed of accordingly.

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**MANOJ KUMAR GUPTA, C.J.**

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**SUBHASH UPADHYAY, J.**

Dt: 14<sup>th</sup> July, 2026  
Rahul