

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.316 of 2015
IN
Civil Writ Jurisdiction Case No. 20072 of 2014

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M/s Dhanpat Prasad through its one of the partner Mr Sanjay Kumar Son of Late Bindra Prasad R/o Mohalla Line Par, P.S. Nawada, P.O. Nawada, District Nawada Pin 805110 State Bihar

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna-15
2. The Engineer in Chief, Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna-15
3. The Chief Engineer, (Communication) (South Bihar Wing) Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna-15
4. The Secretary (Technical) (South Bihar Wing) Road Construction Department, Visheshwaraiya Bhawan, Bailey Road, Patna-15
5. The Superintending Engineer, Road Construction Department Magadh Road Circle, Gaya
6. The Executive Engineer, Road Construction Department Road Division 1 Jehanabad
7. The Executive Engineer, Road Construction Department Road Division, Sheikhpura

.... Respondent/s

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Appearance :

For the Appellant : Mr. Rajendra Narain
For the Respondents : Mr. Mani Kant Mishra, G.P. 25

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-03-2015

The appeal is preferred by the petitioner in CWJC No. 20072 of 2014, dissatisfied with the judgment dated 12th January, 2015 rendered therein.

The respondents invited tenders for the work of



Construction/Improvement cum Output Performance Based Road Assets Maintenance Work for the Bhakhara More-Banshibigha Paraman Road in Km 0.00 to 9.35 under Road Division No. 1, Jehanabad. The appellant and three others submitted the tenders. The process involved technical bid and financial bids. At the stage of technical bid evaluation itself the petitioner and two others were disqualified and the Tender Committee recommended that the work be allotted to M/s Rambarat Sharma, Electric Works Private Ltd. Feeling aggrieved by disqualification of the technical bid, the appellant filed the writ petition. It was pleaded that the disqualification was absolutely without any basis and that no prior notice was given in this behalf.

In their counter affidavit filed by the respondents 3 and 7, the fact that appellant submitted the tender was admitted. The reason for disqualification of the appellant was stated by them is that the appellant was awarded a civil work of construction of 0.6 km of road, but the same was not completed as per the schedule. The plea of the appellant was that the land, for laying the road, to the extent of 0.3 km was not made available and he cannot be found fault with that.

After examining the matter in detail, the learned



single Judge took the view that the disqualification of the technical bid of the petitioner was not justified in law or on facts. Accordingly he has set aside not only the proceedings through which the petitioner was disqualified but also and even the award of work to some third party. However, a direction was issued to the respondents to issue a fresh tender notice. The appellant feels aggrieved by that direction.

Heard Sri Rajendra Narain, learned counsel for the appellant and Sri Mani Kant Mishra, Govt. Pleader No. 25, for the respondents.

The contention of the appellant, no doubt, was accepted as regards the disqualification of his technical bid. The fact, however, remains that not only the tender of the appellant, but also those of two others was disqualified. The matter tenders could have been considered if the tenders of the petitioner and that of M/s Rambarat Sharma, Electric Works Pvt. Ltd. and others were there. Obviously, with a view to ensure that there is proper competition and bidding, learned single Judge directed issuance of fresh tenders. The appellant does not have a right to insist that he must be awarded the contract. The very purpose of inviting tenders is to ensure that there exists, healthy competition in the

context of award of works and public funds are protected.

We do not feel inclined to interfere with the order of the learned single Judge. The Appeal is dismissed. Interlocutory applications, if any, shall also stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Vikash Jain, J)

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