

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14949 of 2015

=====

Dharti Dredging and Infrastructure Ltd. having its registered and corporate office at 6-3-1113/2 DDIL Bhawan, B.S. Maktha, Begumpet, Hyderabad, through its authorized representative Sri Laxmikanta Panda son of R.N. Panda Resident of - 14, Surya Nagar, Kaushlya Enclave, Tirumalgiri, Secunderabad, P.S. - Tirumalgiri, District - Ranga Reddy, presently working as Executive Director of the Company.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Under Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Engineer-in-Chief, (North), Water Resources Department, Government of Bihar, Patna.
5. The Chief Engineer, Water Resources Department, Siwan.
6. The Superintending Engineer, Flood Control Circle, Gopalganj.
7. The Executive Engineer, Flood Control Division, Thakraha Camp, Gopalganj.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. K.N.Singh, Sr. Advocate
Mr. Kumar Kamalnayan, Advocate
For the Respondents: Mr. P.K.Verma. AAG 5
Mr. Manish Kumar, GP 8

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-12-2015

Heard learned Senior Counsel for the petitioner and learned Additional Advocate General 5 for the respondents.

2. The present writ petition has been filed for setting aside letter No. 459 dated 14.06.2015 issued under the signature of the Executive Engineer, Flood Control Division, Thakraha, Gopalganj whereby and whereunder the petitioner has been informed/directed to deposit the amount mentioned therein on account of excess payment, earnest money as well as L.D. on

account of non-completion of work within the prescribed time and for a direction to the respondents to pay the entire balance amount of the petitioner for the work completed by him in Line 1 and Line 2.

3. Interlocutory Application No. 8780 of 2015 has been filed for setting aside Memo No. 5210 dated 19.10.2015 issued under the signature of the Secretary to the Government, Water Resources Department, Government of Bihar, Patna whereby the petitioner has been blacklisted. Considering that the impugned order has been passed on 19.02.2015 subsequent to filing of the writ petition and in the backdrop of this Court's order dated 17.07.2015 in CWJC No.9724 of 2015, the Interlocutory Application No. 8780 of 2015 is taken on record.

4. At the very outset and without going into the detailed merits of the matter, Mr. P.K. Verma learned Additional Advocate General 5 submits that the present writ petition is not maintainable and the petitioner ought to be relegated to the Tribunal constituted under the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008, Section 9 whereof contemplates any dispute between the parties to be referred to such Tribunal for arbitration.

5. This Court finds merit in the above submission insofar as it relates to the subject matter of the writ petition with regard to recovery of excess payment allegedly made to the petitioner in

terms of letter No. 459 dated 14.06.2015 as well as the petitioner's claim for payment of his own dues. It is also not disputed on behalf of the petitioner that the Tribunal has the requisite jurisdiction in this regard.

6. The writ petition is accordingly disposed of granting liberty to the petitioner to approach the Tribunal as aforesaid for redressal of its aforesaid grievances.

7. The order pertaining to blacklisting as contained in memo No. 5210 dated 19.10.2015 shall remain in abeyance till disposal of the arbitration matter by the Tribunal, if the petitioner approaches the Tribunal within a period of four weeks from today.

8. It is made clear that this Court has not considered any of the matters in the writ petition on merits.

9. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran

U			
---	--	--	--