

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1534 of 2012

IN

Civil Writ Jurisdiction Case No. 12766 of 2012

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Indradeo Prasad Yadav, S/o Late Sheetal Prasad Yadav, R/o Village- Saudalpur,
P.S. Kasim Bazar, District- Munger

.... Appellant

Versus

1. The State of Bihar through the Secretary, Building Construction Department,
Govt. of Bihar, Patna
2. The Engineer-in-Chief, Building Construction Department, Bihar, Patna
3. The Chief Engineer, Building Construction Department, Bihar, Patna
4. The Superintending Engineer, Building Construction Circle, Munger
5. The Executive Engineer, Building Construction Division, Munger

.... Respondents

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Appearance :

For the Appellant : Mr. Shivendra Prasad, Advocate.
For the State : Mr. Rajiv Kumar Singh, G.P. 2.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 16-07-2015

Heard learned counsel for the
appellant and the State.

2. By filing this appeal appellant has
sought for a direction to declare Condition No. 16 in
the tender notice asking for Character Certificate of
the person submitting offer as arbitrary. It is
submitted that appellant presented the Character
Certificate at the time of registration as a Contractor,
as such, to require fresh Character Certificate with



the offer pursuant to tender notice is wholly unnecessary. In support of such submission counsel has relied on two orders of the earlier Division Bench dated 19.07.1988, 20.11.1989 passed in C.W.J.C. No. 4940 of 1988, 8722 of 1989. Learned counsel with reference to those orders without producing any of them submitted that the order dated 30.07.2012 passed in C.W.J.C. No. 12766 of 2012 rejecting his writ petition be set aside and direction given to the authorities not to ask for Character Certificate at the time of sale of the tender notice or submission of offer. The two earlier orders of the High Court referred to above have not been placed before us, as such, we are not in a position to comment over the same.

3. We may, however, observe that the instant appeal has become infructuous as in terms of the tender notice the contract had to be completed within a period of one year, which has already lapsed, as such, the appeal has become infructuous, which is, accordingly, disposed of but before parting with this order, we would like to observe that as and when appellant applies for grant of Character Certificate before the competent authority, he shall be obliged to

either grant or pass order refusing the grant giving reasons. In no case authority should keep sitting over the same. In this connection, we may refer to Paragraph 8 of the writ petition where petitioner stated that he tried his best to obtain the Character Certificate for purchasing the tender paper-in-question but said certificate could not be obtained inspite of best effort put forth by him. It is observed that if any person applies for grant of any certificate, it is the duty of the authority to either issue or reject his prayer but not to sit over the same.

(V.N. Sinha, J)

(Jitendra Mohan Sharma, J)

P.K.P./N.A.F.R.

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