

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.100 of 2014

In
LPA No. 1030 of 2013

- =====
1. The Managing Director, Central Warehousing Corporation, Warehousing Bhawan 4/1 Siri Industrial Area, August Kranti Marg, Hauz Khas, New Delhi- 110016
 2. The Regional Manager, Central Warehousing Corporation, Regional Office, Block- A, 2nd Floor, Maurya Lok Complex, Patna

.... Petitioners

Versus

1. M/S Singh Transport through its proprietor Pramod Kumar Singh, son of Late Raj Narayan Singh, resident of Village- Singh Katra, East Of Mundeswari Gate, At & P.S.- Mohania, District- Kaimur
2. Sri Kameshwar Singh, son of name not known through the Regional Manager, Central Warehousing Corporation, Regional Office, Block- A, 2nd Floor, Mauryalok Complex, Patna

.... Respondents

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with

Civil Review No.99 of 2014

IN
LPA No.1292 of 2013

- =====
1. The Managing Director, Central Warehousing Corporation, Warehousing Bhawan 4/1 Siri Industrial Area, August Kranti Marg, Hauz Khas, New Delhi- 110016
 2. The Regional Manager, Central Warehousing Corporation, Regional Office, Block- A, 2nd Floor, Maurya Lok Complex, Patna

.... Petitioners

Versus

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2. Sri Kameshwar Singh, son of name not known through the Regional Manager, Central Warehousing Corporation, Regional Office, Block- A, 2nd Floor, Mauryalok Complex, Patna

.... Respondents

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Appearance :

(In C. REV. No.100 of 2014)

For the Petitioner/s : Mr. Anjani Kumar, Sr. Advocate
Mr. Deepak Sahay Jamuar, Advocate
For the Respondent/s : Mr. Alok Kumar Agrawal, Sr. Advocate
Mr. S.D. Sanjay, Advocate

(In C. REV. No.99 of 2014)

For the Petitioner/s : Mr. Anjani Kumar, Sr. Advocate
Mr. Deepak Sahay Jamuar, Advocate

For the Respondent/s : Mr. Deepak Kumar Singh, Advocate
Mr. B.T. Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER
(Per: HONOURABLE THE CHIEF JUSTICE)

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28-01-2015

Re: I A No. 2485 of 2014 in Civil Review No.100 of 2014

This application under Section 5 of the Limitation Act has been filed with a prayer to condone the delay of 79 days in preferring Civil Review No.100 of 2014. In the application it is stated that the delay occurred in course of taking administrative decision and obtaining legal opinion.

No counter affidavit has been filed opposing the application for condoning the delay.

After hearing learned counsel for the parties, we are satisfied with the reasons to condone the delay in preferring the Civil Review No.100 of 2014. The delay is condoned.

I. A. No. 2485 of 2014 stands disposed of.

These two review petitions are filed with a prayer to review the common order dated 5.12.2013 passed by a Division Bench of this Court in Letters Patent Appeal Nos.1292 and 1030 of 2013. The appeals were filed against the orders in CWJC No.9914 of 2013 and CWJC No.20741 of 2012. The writ



petitions, in turn, were filed, challenging the action of the petitioners herein in disqualifying the respondents herein i.e., the writ petitioners, in the technical bid stage of tender, for awarding a transport contract. The learned single Judge dismissed the writ petitions after elaborate discussion and upheld the action of the petitioners, in disqualifying the respondents. In the Letters Patent Appeals, the order passed by the learned single Judge was upheld. However, an observation was made to the effect that the disqualification of the respondents will be confined to that tender and not for future tenders.

These two review applications are filed pleading two grounds. The first is that the petitioners were not heard before the order was passed by the authority. The second is that the observations made in the order passed by the Division Bench, travel beyond the scope of the writ petition.

Heard learned counsel for the petitioners and the learned counsel for the respondents.

We are conscious of the fact that the review cannot be equated with an appeal and that it is only on limited grounds, that the review can be entertained.

It has already been mentioned that the Division Bench has not interfered with the common order passed by the learned

single Judge. Therefore, it ought to have been a simple dismissal of the L.P.As. In case the Division Bench wanted to undertake any adjudication, which has the effect of determining the rights of the parties, it ought to have issued notice to the petitioners herein. Obviously because the L.P.As. had been dismissed, the Bench did not think it necessary to issue notice. Further, this is not a case where the respondents complained of any disqualification, to participate in the tenders that may be floated by the petitioners, in future. The dispute itself was about a particular tender. When there was no general order of disqualification, the occasion to pronounce upon such an issue did not arise. We find merit in both the grounds pleaded by the petitioners.

Therefore, the reviews are allowed, deleting the observation regarding disqualification in future tenders. We make it clear that the relationship between the parties shall depend upon the clause that may be incorporated in the respective tenders in future.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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