

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5634 of 2015

=====

M/s Maruti Enterprises, Gudari Road , Rajendra Chowk , Hajipur, Vaishali- 844101 through one of its partner namely Niket Kumar Singh, Aged about 43 years Son of Late Ashwani Kumar Verma, Resident of Pokhara Mohallah, Police Station-Town, District- Vaishali.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department Government of Bihar, Patna.
3. The Special Secretary, Road Construction Department Government of Bihar, Patna.
4. The Engineer-in-Chief, Road Construction Department, Bihar, Patna.
5. The Chief Engineer, National Highway Subdivision, Bihar, Patna.
6. The Superintendent Engineer, National Highway Work Circle, Road Construction Department, Bihar, Patna.
7. The Executive Engineer, National Highway Division, Gulazarabagh, Patna.
8. The District Magistrate Patna.
9. The District Magistrate, Begusarai.
10. The Branch Manager, Bank of India, Hajipur Branch, Hajipur.
11. National Highway Authority of India, Limited, Ministry of Surface, Transport and National Highway, New Delhi.
12. The Regional Officer, National Highway Authority of India Limited, Kidwaipuri, Patna.

.... Respondents

=====

Appearance :

For the Petitioner : M/s. Y.V. Giri, Senior Advocate and
Sanjeet Kumar, Advocate

For the : M/s. Smt. Namrata Mishra- G.A.13 and
Alok Ranjan, A.C. to G.A.13

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 15-04-2015

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the decision taken by the

Department Grievance Redressal Committee in its meeting held on

10.02.2015 rejecting the request of the petitioner to grant him



extension start and complete the work without appreciating the fact that the delay has occurred due to the reasons beyond the control of the petitioner. He further seeks quashing of the order dated 17.12.2014 passed by the Executive Engineer, National Highway Division, Gulzarbagh, Patna by which the agreement concerned has been terminated in terms of clause 59.2(a) and clause 59.2(e) of the terms and condition of the agreement. He also seeks quashing of the letter no.905 dated 04.08.2014 issued under the signature of Executive Engineer, National Highway Division, Gulzarbagh, Patna whereby he has been debarred from participating in any tender till the completion of the pending work. He further prays for a direction to the respondents to allow the petitioner to complete the allotted work of the same agreement on condition within the time frame.

However, learned counsel for the State has pointed out that for this aspect of the matter the petitioner should make a reference for getting the matter resolved or decided under the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008 (hereinafter referred to as “the Act”).

On such submission having been made on behalf of the petitioner, petitioner confines his prayer for granting him liberty to take necessary steps for getting the matter referred to the Arbitral Tribunal constituted under the aforesaid Act. However, he submits

that for interregnum period his Bank guarantee should not be encashed by the authority.

In above view of the matter, this writ application is being disposed of, without going into the merit of the case, with a liberty to the petitioner to take steps for getting the matter referred to and considered by the Tribunal under the aforesaid Act and since the petitioner has undertaken before this Court that he would file such an application before the Tribunal within three weeks, let the Bank guarantee be not encashed for three weeks. However, if there is requirement of further extension of such relief then the petitioner would have to seek such relief from the concerned Tribunal itself and, in such case, the concerned authority will decide the issue on its own merit without being prejudiced by the fact that this Court has granted such interim relief to the petitioner.

(Dr. Ravi Ranjan, J)

N.H./-

U			
---	--	--	--