

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12235 of 2015

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M/s Vishwa Infrastructures & Services Pvt. Ltd. & BRCCPL (JV), Joint Venture Companies incorporated under the provisions of Companies Act, 1956 having its Registered Office at 1-11-256/c/24, Plot no. 24, Gagan Vihar Colony, Begumpet, Hyderabad- 500016 through its Director- Finance, M. Goverdhan Reddy S/o Late M Siya Reddy, Resident of 3-4-511/512 Barkatpura, P.S. Kacheguda, dist-Hyderabad- 27, Telangana.

.... Petitioner/s

Versus

1. The Bihar Urban Infrastructure Development Corporation Ltd., a Government of Bihar Undertaking, having its office at 303, 3rd Floor, Maurya Tower, Maurya Lok Complex, Budh Marg, Patna- 800001 through its Managing Director.
2. The Chief General Manager, Bihar Urban Infrastructure Development Corporation Ltd., a Government of Bihar Undertaking, having its office at 303, 3rd Floor, Maurya Tower, Maurya Lok Complex, Budh Marg, Patna- 800001.
3. The Project Manager, Bihar Urban Infrastructure Development corporation Ltd., a Government of Bihar undertaking, having its office at 303, 3rd Floor, Maurya Tower, Maurya Lok Complex, Budh Marg, Patna- 800001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Advocate.

Mr. Alok Kumar Agrawal, Advocate.

For the Respondent/s : Mr. Rabindra Kumar Priyadarshi, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-08-2015

Heard learned counsel for the petitioner and the Respondents.

2. The present writ application has been filed with a prayer for quashing the letter no. 39 dated 03.01.2015 in so far as it has debarred and blacklisted the petitioner for any contract for indefinite period.

3. Learned Senior counsel Mr. S.D. Sanjay appearing on behalf of the petitioner invites attention to the impugned order dated 03.01.2015 as contained in Annexure-14 whereby the petitioner's registration with BUIDCO has been cancelled and

the petitioner has been blacklisted, debarring him for future participation in any project of BUIDCO. It is submitted that such adverse decision had been taken against the petitioner without however affording any opportunity whatsoever of being heard in the matter which is wholly arbitrary and illegal.

4. It is further stated that such order is coming in its way of participating in other tenders all over India, some of which provide that builders who are blacklisted in the State Government and its organization are not eligible to participate in the bid.

5. Learned Principal Additional Advocate General, Mr. Lalit Kishore appears and points out from para-33 of the writ petition itself that the petitioner appears to have approached the Arbitral Tribunal for grant of interim stay against the impugned order of blacklisting. No doubt, an averment has been made that the Arbitral Tribunal refused to hear such petition but however there is no averment to suggest that such petition has either been withdrawn or dismissed. It is therefore submitted that the petitioner ought not be permitted to pursue parallel remedies in respect of the same grievance.

6. Having heard the parties and upon consideration of the materials on record, this Court is of the view that the fact of the petitioner having moved the Arbitral Tribunal for grant of interim stay has been duly disclosed in the writ petition. It is also stated at the bar that the Tribunal has declined to pass any formal orders on such petition treating the same to be nonest in

view of its lack of jurisdiction to proceed in the matter in terms of Section 2(e) of the Bihar Public Works Construction Disputes Arbitration Tribunal Act, 2008. Learned counsel further undertakes to file a petition before the Arbitration Tribunal seeking withdrawal of the petition.

7. The impugned order dated 03.01.2015 does not speak of any prior notice having been issued to the petitioner affording an opportunity to be heard in the matter which prima facie renders the order to be in violation of natural justice. A specific denial has been made in para-36 of the writ petition that neither any show cause nor any opportunity of hearing was provided to the petitioner before passing of the impugned order dated 03.01.2015

8. In the above circumstances, with consent of the parties, the impugned order dated 03.01.2015 passed by the Chief General Manager, BUIDCO as contained in Annexure-14 to the writ petition is hereby set aside. The respondents may now issue a show cause notice to the petitioner and after granting due opportunity of hearing proceed in the matter in accordance with law.

9. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/-

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