

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20406 of 2010

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Ram Krishna Sahu S/O Late Mahavir Sahu, R/O Bank Colony, Road No.- 17, P.O.- Keshri Nagar, P.S.- Patliputra, Town & Distt.- Patna (Bihar) Petitioner
Versus

1. The Chairman & Managing Director, Rural Electrification Corporation Ltd. (A Government Of India Enterprise), Core-4, Scope Complex, 7 Lodhi Road, New Delhi-3
2. The Zonal Manager, Rural Electrification Corporation Ltd., Zonal Office, East Central Zone, Block-C, 4th Floor, Maurya Lok Complex, Dak Bunglaon Road, Patna-1, Bihar
3. The Chairman-Cum-Managing Director, Consulting Engineering Services (India) Pvt. Ltd, 57, Nehru Place (5th Floor), New Delhi-110019.
4. The Associate Director, Consulting Engineering Services (India) Pvt. Ltd., CES Centre, D.M.-3 & 4, Sector-V, Salt Lake, Kolkata-700091.
5. The O.S.D., Consulting Engineering Services (India) Pvt. Ltd., CES Centre, D.M.-3 & 4, Sector-V, Salt Lake, Kolkata-700091.
6. Binod Kumar Maldahiyar, Erstwhile Resident Engineer, Consulting Engineering Services (India) Pvt. Ltd., Patna, House No.-20, Ashyan, Patel Nagar (East), Road No.-5, Patna-23
7. The Resident Engineer, Consulting Engineering Services (India) Pvt. Ltd., Patna, House No.- 30, Road No. 19, 1st Floor, P.O.- Keshri Nagar, Patna-24
8. Harihar Saini, Consultant Consulting Engineering Services (India) Pvt. Ltd., Patna, House No.- 30, Road No. 19, 1st Floor, P.O.- Keshri Nagar, Patna-24
9. Bhubneshwar Pd. Singh, Consultant, Consulting Engineering Services (India) Pvt. Ltd., Patna, House No.- 30, Road No. 19, 1st Floor, P.O.- Keshri Nagar, Patna-24
..... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhishekh, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT
Date: 21-12-2015

The petitioner was appointed as Consultant Engineer by
Consulting Engineering Services (India) Pvt. Ltd.

2. Government of India took a decision to launch massive
electrification works in villages, popularly known as Rajiv Gandhi
Gramin Vidyutikaran Yojna, (hereinafter referred to as the
'RGGVY'). The execution of the project was entrusted to Rural

Electrification Corporation Ltd. (hereinafter referred to as the RECL), a public sector company, a Govt. of India undertaking.

3. RECL in turn engaged the services of a private concern Consulting Engineering Services India Pvt. Ltd., registered under the Companies Act, for consultancy etc. in the matter. The petitioner was engaged by this Consultancy Engineering Service Pvt. Ltd on behalf of Rural Electrification Corporation Ltd., as consultant on a consolidated amount of Rs. 22,000/- per month (Annexure-2 series). His engagement was subsequently terminated on 03.07.2010 by his employer, the Officer-on-Special Duty, Consulting Engineering Services, India Pvt. Ltd. on the ground of decrease in inspection load in the Bihar State, during past few months. A copy of letter dated 03.07.2010 is contained in Annexure- 5.

4. The petitioner initially challenged the said letter on broadly two grounds; Firstly: that no notice was given before discontinuing him, Secondly: the reason for removal was against materials on record.

5. The petitioner has filed supplementary affidavit limiting his prayer, now to compensation only.

6. The issue is whether a writ could be issued to purely a private body to pay compensation for removal in exercise of its original jurisdiction under Article 226 of the Constitution of India.

Secondly whether compensation can be directed even without coming to a finding that removal was unjustified.

7. The petitioner in support of his submission that a writ would be maintainable against a private body discharging public function has relied upon the following judgments: Anandi Mukta Sadguru Shree Mukta Jeevandasswami Suvarna Jaya Vs. V.R. Rundani & Ors, disposed of on 21.04.1989 by the Hon'ble Apex Court, Binny Ltd. & Another Vs. V. Sadasivan & Ors, reported in (2005) 7 SCC 657, Kumari Srilekha Vidyarthi Vs. State of U.P. reported in 1991 AIR SC 537 and D.F.O., South Kheri Vs. Ram Sanehi Singh, reported in AIR 1975 SC 205.

8. I find from the materials on record that the task of Electrification was granted to a Government of India undertaking, which in turn engaged the service of Consulting Engineering Services India Pvt. Ltd, an entirely private body, registered under the Companies Act, for the limited purpose of providing consultancy etc. The petitioner in turn was both engaged and removed by the Consulting Engineering Services India Pvt. Ltd. The Government of India undertaking had no hand in the appointment of the petitioner. It is true that the Hon'ble Apex Court in case of Binny Ltd. & Another Vs. V. Sadasivan & Ors, reported in (2005) 7 SCC 657 observed that though a writ of mandamus or remedy under Article 226 of the

Constitution is pre-eminently a public law remedy, it is also available against a private body for a person, if (a) Such private body is discharging a public function, (b) for securing collective benefit for the public or a section thereof, and is accepted so having authority to do so, apart from certain other conditions.

9. I find that there is no material on record from which it can be inferred that a private concern is performing public functions of a nature, so as to attract 226 of the Constitution. It is merely providing Consultancy service, as such the decision rendered in case of Binny Ltd. & Another Vs. V. Sadasivan & Ors (supra) would not be applicable to the facts of the instant case. For similar reasons, the decisions in case of Kumari Srilekha Vidyarthi, D.F.O., South Kheri and Anandi Mukta Sadguru Shree Mukta Jeevandasswami Suvarna Jaya (Supra) would be also of no aid, as the factual aspects and issues involved are different.

10. In the result, I find no merit in this writ application and is accordingly dismissed.

(Samarendra Pratap Singh, J.)

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