

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19872 of 2010

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Bhushan Singh S/O Late Panna Lal Singh, R/O Industrial Estate Road, Kurji, P.S.-
Digha, Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Building Construction Deptt., Govt. of Bihar, Patna
3. The Engineer-in-Chief Cum Additional Commissioner Cum Special Secretary
Building Construction Department, Government Of Bihar, Patna
4. The Chief Engineer, Building Construction Department, Government of Bihar,
Patna
5. The Superintending Engineer, B.C. Department, Building Circle, Patna
6. The Executive Engineer, Patna West Building Division, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajarangi Lal

For the Respondent/s : Mr. Rajesh Singh, G.P.16

Mrs.Abhanjali, AC to G.P.-16

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 21-04-2015

Heard the parties.

The petitioner is aggrieved by the order/ communication dated 25.06.2010 (Annexure-8) issued by the respondent Superintending Engineer to the respondent Executive Engineer. The impugned order/ communication (Annexure-8) is in two parts; by the first part of the impugned order/ communication, tender allotted to the petitioner for barbed wire fencing works with respect to certain government residential houses situate at Rajbanshi Nagar, Patna has been cancelled; and by the 2nd part of the impugned order/ communication the petitioner has been debarred from participating in any future tender till further order.

Learned counsel appearing on behalf of the petitioner, at the very outset, has submitted that the petitioner is not challenging the first part of the impugned order regarding cancellation of tender



allotted to him with respect to barbed wire fencing works, detailed in the impugned communication dated 25.06.2010 (Annexure-8). He further submits that the petitioner is aggrieved by only the second part of the order whereby he has been debarred from participating in any future tender. According to him, the second part of the impugned order is in the teeth of the rules of natural justice. Therefore, on that ground alone, the impugned order to that extent cannot be sustained in law.

Learned State counsel appearing on behalf of the respondents has opposed the prayer by referring to the averments made in paragraphs- 4 and 5 of the counter-affidavit filed on behalf of the respondent no.6. It is pointed out that before cancellation of the tender of the petitioner sufficient opportunity was given to him. Therefore, impugned action cannot be legally faulted.

I am afraid, the submissions made by the learned State counsel cannot be countenanced. Apparently, the petitioner is not challenging the validity and correctness of cancellation of allotment of the tender. The averments made in paragraphs- 4 and 5 are only with respect to the action taken by the respondents with respect to the cancellation of tender allotted to the petitioner. In the whole counter-affidavit it has not been stated that before debarring the petitioner, any opportunity of hearing was given to him or any such show cause notice was issued to him as to why he should not be debarred from participating in any future tender.

After having heard the parties and on consideration of the materials available on the record, this Court finds that before passing the impugned order debarring the petitioner from participating in future tender, opportunity of hearing was not given to him. In that view of the matter, second part of the impugned order/

communication dated 25.06.2010 (Annexure-8) debarring him from participating in future tender is quashed and set aside. However, this shall not preclude the respondents from passing fresh order strictly in accordance with law.

The writ petition stands allowed to the extent indicated above, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

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