

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.492 of 2013

In
Civil Writ Jurisdiction Case No. 9379 of 2013

- =====
1. The State Of Bihar Through The Secretary Rural Works Department, Government Of Bihar Bishwashraiya Bhawan Bailey Road, Patna.
 2. The Engineer-In-Chief, Rural Works Department, Government Of Bihar, Bishwashraiya Bhawan, Bailey Road, Patna.
 3. The Ex-Executive Engineer Rural Works Department Work Division-3, Chapra.
 4. The Executive Engineer Road Construction Department Road Division Samastipur.
 5. The Chief Engineer, Road Construction Department Government Of Bihar Bishwashraiya Bhawan Bailey Road, Patna.
 6. The Engineer-In-Chief Road Construction Department, Patna.
 7. The Secretary Road Construction Department, Bihar, Patna.

.... Petitioner/s

Versus

M/S Saj Enterprises Through Its Partner In Charge Mr. Akhilesh Kumar Jaiswal

.... Respondent/s

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with

Miscellaneous Jurisdiction Case No.3424 of 2013

IN
Civil Writ Jurisdiction Case No. 9379 of 2013

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M/S Saj Enterprises Through Its Partner In Charge Mr. Akhilesh Kumar Jaiswal S/O Late Ram Narayan Lal S-401, Udaygiri Apartment, Budh Marg, Patna-1

.... Petitioner/s

Versus

1. The State Of Bihar Through Pratyay Amrit, The Secretary, R.C.D., Bihar, Patna.
2. Sri Baban Ram, The Engineer- In- Chief And Chief Engineer, R.C.D., Bihar, Patna.
3. Uday Singh, The Executive Engineer, R.C.D., Road Division, Samastipur.

.... Respondent/s

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Appearance :

(In C. REV. No.492 of 2013)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

(In MJC No.3424 of 2013)

For the Petitioner/s : Mr. Suresh Prasad Singh No.1

For Opp. Party No.2 : Mr. Vikas Kumar

For the Opp. Party No.3 : Mr D. K. Sinha, Senior Advocate
Mr. Vikas Kumar
Mr. Swapnil Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

11 06-05-2015

Heard learned counsel for the petitioner and learned counsels for the State and for the opposite parties.

The contempt proceedings have been initiated against opposite party Nos.2 and 3, the Engineer-in-Chief, Road Construction Department and the Executive Engineer, Road Construction Department, Road Division, Samastipur for willful disobedience of the order dated 13.5.2013 passed by this Court in C.W.J.C. No.9397 of 2013.

By the aforesaid order while allowing the writ application and quashing the impugned letter dated 6.12.2012 declaring the petitioner as defaulter, the respondents were directed to consider the technical bid of the petitioner with respect to Tender No.19/2012-13/RCD/Samastipur and in case it was found otherwise qualified then the financial bid was also to be considered before finality was accorded to the decision taken on the tender.

Learned counsels for the opposite parties rely upon the stand taken in the show causes and supplementary show causes filed by them. It is stated that the Evaluation Committee met on 18.3.2013 and on that day it had found only two out of five tenderers as successful in the technical



bid and the petitioner, although not mentioned in the uploaded documents, was evidently disqualified on account of the order dated 6.12.2012, which was subsisting on the date and there was also a request to open the financial bid of the successful tenderers. It is submitted that the decision of the Committee dated 18.3.2013 was uploaded on the website of the Road Construction Department on 19.3.2013 at 12.32 hours and evidently the petitioner had knowledge of the same. Thereafter, the financial bids of the two successful tenderers were considered and on 4.4.2013 it was disposed of in favour of the successful tenderer to whom acceptance letter was issued on 8.4.2013 and the Work Order was issued on 10.4.2013 followed by the Agreement dated 25.4.2013.

It is submitted by learned counsel for the opposite parties that on 8.4.2013, the petitioner filed a writ petition but deliberately suppressed the fact that the financial bid has already been disposed of and the said matter was not even informed to this Court when the writ petition was taken up for final disposal on 13.5.2013, which led to the order being in terms that has been passed. It is further submitted that the tender had already been finalized much before the order dated 13.5.2013 itself and after the issuance of Work Order, the party had started work on the same.



It is also contended by learned counsel for the opposite parties that had the entire matter been brought to the notice of the Court then probably this Court may not have passed the order in terms that has been passed in the matter dealing with the work in question, which the petitioner had failed to inform to this Court despite having knowledge about the same. Since the writ application itself has been filed four days after the disposal of the financial bid, hence the opposite parties ought not to be held guilty of having committed contempt of this Court.

Learned counsel for the petitioner submits that the direction of this Court was to consider the technical bid of the petitioner and if he was found qualified then the financial bid would also be considered before the finality was accorded to the decision of the tender and thus once the said order had been passed, the opposite parties were obliged to consider the technical bid and financial bid even if they had finalized the financial bid earlier.

This Court may have agreed with the submission of learned counsel for the petitioner, if all the facts had been brought before this Court on 13.5.2013 by the petitioner.

However, this Court has a lurking suspicion that the petitioner has deliberately not brought the entire matter to the

notice of the Court which led to the passing of the order in general terms. If the petitioner had informed this Court about all aspects of the matter, then probably the order would have been in much more specific terms and would not have given any opportunity to the opposite parties to take the plea that they are now taking on account of the fault of the petitioner.

This Court is of the view that the charges in the contempt application of willful disobedience of the order must be proved beyond reasonable doubt. The action of the opposite parties may not be of willful disobedience of the order under contempt and they deserve to be given the benefit of doubt in the present matter.

The proceedings of contempt are, accordingly, dropped against opposite party Nos. 2 and 3 and the contempt application is dismissed.

In view of the dismissal of the contempt application, no order is required to be passed in the civil review application. It is, accordingly, disposed of.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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