

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11624 of 2016

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1. M/s Mother India Construction Pvt. Ltd., a Company registered under the Companies 1956, and having its registered office at Aspura House, Road No. 3, Sanjay Gandhi Nagar, Kankarbagh, Patna 800020 through its Manager and authorized person, Raj Kishor S/o Sri Rama Shankar Singh R/o Pesu Staff Quarter No. 4 Mangals Road, Patna 800015

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Rural Works Department, Patna, Bihar
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna
3. The Engineer - in - Chief, Rural Works Department, Government of Bihar, Patna
4. The Chief Engineer, Rural Works Department, Bihar
5. The Superintendent Engineer Rural Works Department, Works Division (W) Circle Kishanganj, Bihar
6. The Superintendent Engineer Rural Works Department, Works Division, Paliganj, Bihar
7. The Executive Engineer Rural Works Department, Work Division, Kishanganj 1, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanket
Mr. P. Kumar Mishra
For the Respondent/s : Mr. Alok Kumar

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 06-10-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner has approached this Court against the order dated 22.06.2016 passed by the Engineer-in-Chief, Rural Works Department, Government of Bihar, by which the petitioner has been declared defaulter and debarred from participating in

future tenders.

Admittedly, when the order of debarment was passed the petitioner, out of three agreements, had completed the work only with respect to one of them by 18.06.2016, whereas with regard to other two agreements the completion was only to the extent of 7% and 15%. Thus, the debarment in terms of the Government Circular dated 30.09.2009 cannot be held to be unjustified or arbitrary.

Learned counsel for the petitioner, however, refers to the letters issued by the Executive Engineer to the Superintending Engineer recommending that since the petitioner has taken up the matter and made very quick progress and has completed 82% and 84% works in the two agreements, his case may be considered for removal from the list of debarment.

The Government Circular dated 30.09.2009 provides that in case of non-completion of 80% of the work, the debarment can be ordered but once a contractor is declared as defaulter and debarred from participating in future tenders under the said Circular, the debarment is lifted only after completion of the work. No such circumstance has been shown by the petitioner to this Court which led to the delay. While it has to be appreciated that the petitioner has now taken up the work in right earnest and has

completed a substantial portion of the work but it will not be possible to set aside the debarment order in the given facts and circumstances of the case.

The writ application is, therefore, dismissed. However, no sooner the petitioner completes 100% of the work and gives an intimation with regard to the same to the Executive Engineer, the respondents must ensure that the debarment order is lifted within a week thereafter.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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