

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10911 of 2016

M/s Ganesh Sai Contractors And Construction Pvt. Ltd. having its office at Near Kiul Railway Station, Vrindavan, Lakhisarai through its director namely Vinay Kumar son of Prahlad Yadav resident of Kiul Dharmshala, Vrindawan, District - Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Department of Mines & Geology, Govt. of Bihar, Patna.
2. The Principal Secretary cum Commissioner, Department of Mines & Geology, Govt. of Bihar, Patna.
3. The Joint Secretary cum Director Department of Mines & Geology, Govt. of Bihar, Patna.
4. The District Magistrate cum Collector, Lakhisarai.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate

For the Respondent/s : Mr. D.K.Sinha, Sr. Advocate, Mines

Mr. Rajendra Prasad, Spl.P.P.Mines

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 28-07-2016

Heard learned counsel for the petitioner and learned Senior Counsel, Mines Department.

A preliminary objection is taken by learned Senior Counsel for the Mines Department that the petitioner not having participated in the tender process, it is not open to him to challenge the condition given in the notice inviting tender.

Learned counsel for the petitioner in reply submits that the petitioner had filed the writ petition immediately after the publication of the NIT but before the opening of the Technical Bid

and thus, he should be permitted to challenge the same.

This Court is of the view that the petitioner having expressed his reservation about the condition in the NIT, he could have only challenged the condition thereunder if he had continued to participate in the NIT and sought leave of this Court to challenge the condition which, according to him, was unlawful so as to get over the bar of challenging the condition of the notice inviting tender after having participated in it. That having not been done, and no leave having been taken by the petitioner, I am inclined to accept the preliminary objection raised by learned Senior Counsel, Mines Department.

In the above circumstances, the writ application is dismissed as not maintainable.

(Ramesh Kumar Datta, J)

S.Pandey/-

AFR/NAFR	
CAV DATE	
Uploading Date	17.09.2016
Transmission Date	