

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11983 of 2016

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M/s. Govind Bhagat, a proprietorship firm having its registered office at Sikandra Bazar, Post Office and Police Station-Sikandra, District-Jamui through its proprietor namely Sri Govind Bhagat, son of Sri Nageshwar Prasad, resident of Village- Sikandra Bazar, Post Office and Police Station-Sikandra, District-Jamui

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Rural Works Department, Government of Bihar, Patna
3. The Engineer-in-Chief, Rural Works, Department, Government of Bihar, Patna
4. The Deputy Secretary cum Internal Financial Advisor, Rural Works Department, Government of Bihar, Patna.
5. The Chief Engineer, Rural Works Department, Government of Bihar, Patna
6. The Superintending Engineer, Rural Works Department, Works Division Jamui, District-Jamui, Bihar
7. The Executive Engineer, Rural Works Department, Works Division, Jamui, District-Jamui, Bihar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Alok Ranjan, AC to G.A.6

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 24-10-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 5.5.2016 by which the tender, in which the petitioner had participated, has been cancelled.

The petitioner after the technical bid emerged as the only qualified tenderer. Thereafter it is stated that the financial bid was also opened. However, relying upon the Government Notification dated 1.3.2016 issued by the Finance Department the tender has been cancelled and re-tendering has been directed and, as a matter



of fact, the re-tender has also been published in the newspapers on 1.7.2016.

Learned counsel for the State submits that the petitioner has also filed his tender in the re-tender and thus it is not open to him to challenge the decision taken in the earlier tendering process.

Learned counsel for the petitioner submits that the petitioner immediately after the decision of this Court dated 21.7.2016 in the case of M/s. R.R.Company vs. The State of Bihar & Ors. in CWJC No. 8869 of 2016 and its analogous cases had filed the present writ application and therefore he is entitled to the benefit of the said decision from that date.

In my view, by participating in the fresh tender process the petitioner has waived his right to challenge the decision taken in the earlier tender process. The tender has been cancelled by order dated 5.5.2016, which was immediately known to the petitioner, but the petitioner did not feel aggrieved by the said decision. The fact that this Court has come up with a decision dated 21.7.2016 can be of no avail as the petitioner has not challenged the said decision earlier rather he has accepted the same by participating in the fresh tender process. In the said circumstances, the petitioner cannot be permitted to approbate and reprobate at the same time.

The writ application is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

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