

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6030 of 2016

=====

Banke Bihari Singh, Son of Late Govind Prasad Singh, Resident of Sitla Asthan Road, Tilkamanjhi, P.S. Tilkamanjhi, District - Bhagalpur

.... Petitioner.

Versus

1. The State of Bihar
2. The Secretary, Rural Works Department, Bihar, Patna
3. The Engineer - in - Chief - Cum - Additional Commissioner - Cum - Special Secretary, Rural Works Department, Bihar, Patna
4. Joint Secretary, Rural Works Department, Bihar, Patna
5. The Chief Engineer - 1, Rural Works Department, Bihar, Patna
6. The Superintending Engineer, Works Circle, Aurangabad, Rural Works Department

.... Respondents.

=====

Appearance :

For the Petitioner : Mr. Binod Kanth, Sr. Advocate
Mr. Prabhu Nath Pathak, Advocate

For the Respondent : Dr. Anshuman, SC-14
Mr. Kuber Pathak, AC to SC-14

=====

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 29-06-2016

Heard counsel for the petitioner and learned counsel appearing for the State.

2. The petitioner seeks quashing of his order of suspension, dated 08.03.2016, passed under Rule 9(1)(A) of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (for short “Bihar CCA Rules, 2005), for the charge of publishing tender for roads under the “Head-3054”, without obtaining Administrative approval.



3. Generally, this Court is not inclined to interfere with the order of suspension, once a proceeding has been initiated unless there has been infraction of law or undue delay in disposal of the same. However, the peculiar facts of the instant case necessitates due to consideration of the relief as prayed for.

4. The fact of the case is not much in dispute. The petitioner was posted as Executive Engineer, Rural Works Department, Works Division, Jehanabad, from July, 2013 to July, 2014. Prior to his joining the said post, the District Magistrate, Jehanabad, vide his letter, dated 04.12.2012, directed the Manager, Ercon, Jehanabad, to make urgent repair works of 13 roads out of 27 roads constructed by Ercon 4 to 5 years ago. The said direction was issued, as on inquiry, the District Magistrate found that 13 of such roads were heavily damaged including road from Chandhriya Govindpur to Sadikpur, which form one of the 13 damaged roads, having a span of 6.21 kms. The road was admittedly constructed by Ercon on 05.06.2008. In the light of the direction of the District Magistrate, Bill of Quantity was prepared as per scheduled rate of Rural Works Department and a total sum of Rs.77.00 lakhs and odd was estimated against expenditure for repair of damaged roads. The Bill of Quantity was duly sanctioned by the Superintending Engineer, Works Circle, Aurangabad on



16.08.2013. Thereafter, *e-Tendering* applications were invited from intending Tenderers for award of repair of the roads including one from Chandhriya Govindpur to Sadikpur under the said Head, which is subject matter of the case. The Notice Inviting Tender was published on 21.08.2013. Against the said notice, only one Bidder submitted his bid. The technical bid and financial bid of the Tenderer were found in order by the competent Authority. The Tender papers were sent to the Engineer-in-Chief for settlement through proper channel and finally the same was settled in favour of M/s. Magadh Engineering Works, Jehanabad. The Tenderer completed the repair work and after due verification and approval of the competent Authority, the payment was made.

5. It appears from perusal of the Counter Affidavit, that the petitioner has been put under suspension, for the solitary reasons, that the Bill of Quantity was issued without obtaining administrative approval of the competent Authority under Rule 130 of PWD Code.

6. Mr. Kanth, learned Senior Counsel appearing for the petitioner, submits that the work in question would not come under Rule 130 of PWD Code but would fall under Rule 121 of PWD Code, as it relates to repair of road, and not a case of fresh construction of a road. He submits that as per Rule 121 of PWD

Code, no administrative approval is required for repairs and petty works.

7. Learned Counsel for the State, on the other hand, submits that as the departmental proceeding has been started, the petitioner has rightly been put under suspension.

8. I have heard counsel for the parties. The petitioner has been suspended solely for the reasons that BOQ for repair of road from Chandhriya Govindpur to Sadikpur was issued without administrative approval. There is no other allegation against him of any favouritism or otherwise. Having regard to the facts and submissions noticed in foregoing paragraphs, coupled with the fact that the petitioner has already remained under suspension for about four months, this Court is *prima facie* satisfied that in ends of justice, there should be *ad interim* stay of suspension order pending departmental proceeding. Nothing in this order should be construed, as this Court having expressed any opinion on merit of the case. It goes without saying that the petitioner would co-operate in the proceeding and would not seek unnecessary adjournment, which should be completed within six months of receipt of copy of order.

9. The writ application is, accordingly, disposed

of.

(Samarendra Pratap Singh, J)

kunal/-

U			
---	--	--	--