

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7932 of 2016

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1. M/s S & P Infrastructure Developers Pvt. Ltd. a registered Company having its registered Office at N 07 New Delhi House 27, Barkhamba Road, New Delhi 110001 through its authorized represented Sri Shatrudhan Mishra S/o late Mr. Ambika Mishra Resident of resident of House No. 29, Village Bhuhulwa, Deeh, Post- Jharmahui District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Road Construction ,Govt. of Bihar, Patna.
2. The Engineer in Chief, Department of Road Construction, Govt. of Bihar, Patna
3. The Chief Engineer, Department of Road Construction (NH Wing), Bihar Patna.
4. The Superintending Engineer, Department of Road Construction (NH Wing) , Bhagalpur.
5. The Executive Engineer, Department of Road Construction N.H. Division, Bhagalpur.
6. The Assistant Engineer, Department of Road Construction .N.H. Division, Bhagalpur.
7. The Junior Engineer, Department of Road Construction, N.H. Division, Bhagalpur.
8. The Union of India through the Regional Officer, Ministry of Road Transport and Highways, Govt. of India, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Adv.
For the Respondent/s : Mr. Nawal Kishore Singh, SC-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 13-05-2016 Heard Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner, counsel for the State and Mr. A.B. Mathur learned Central Government Counsel for the Union of India.

The prayer of the petitioner in this writ petition is for a direction to the respondent No.3 i.e the Chief Engineer, Department of Road Construction (NH Wing), Bihar, Patna to



dispose of his objection present at Annexure-5 which has been filed in response to the directives issued by the Executive Engineer (NH Division), Road Construction Department, Bhagalpur bearing letter No.391 dated 1.4.2016 whereby the petitioner has been directed to repair the National Highway No. 80 in between Kms 153 to 166 under the IRQP agreement (Job No.1509/2013-14) stated to have been executed by the petitioner.

Responding to the notice it is the argument of Mr. Kejriwal that the demand is wholly arbitrary for there has been no lapse on quality work on the part of the petitioner in carrying out the maintenance work rather it is on account the heavy traffic on the road which has resulted in the potholes and which is not by reason of any inferior work quality. He submits that the directives have been issued by the Executive Engineer under a threat of issuance of fresh advertisement for carrying fresh repair work at the risk and cost of the petitioner. He submits with reference to Annexure-5 which is the objection filed by the petitioner that the said objection filed before the respondent Executive Engineer remained pending.

Mr. Kejriwal advancing the cause of the petitioner submits that since the petitioner and the Executive Engineer are parties to the agreement hence the Chief Engineer the respondent no.3 be

appropriately directed to consider the grievance of the petitioner and to dispose it of accordingly.

Having heard learned counsel for the parties and considering the nature of relief prayed herein, I deem it fit and proper to dispose of the writ petition with a direction to the petitioner to raise his grievance before the respondent No.3 i.e the Chief Engineer, Department of Road Construction (NH Wing), Bihar, Patna within a fortnight from today and who shall accordingly consider the grievance of the petitioner and dispose of the same in accordance with law but only after giving opportunity of hearing to the petitioner.

The writ petition is disposed of.

It goes without saying that pending disposal of the grievance so to be raised by the petitioner before the respondent no.3, the decision of the Executive Engineer that the petitioner would have to bear the risk and cost of the repair work to be carried out as stipulated in Annexure-4, shall remain stayed.

(Jyoti Saran, J)

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