

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.350 of 2014

IN

LPA No.237 of 2014

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Manoj Kumar Pandey, son of Sri Rajendra Pandey, resident of Bhagat Singh Road,
Post and P.S.- Naugachia, Distt. - Bhagalpur

.... Petitioner/s

Versus

1. The Union of India, through the Chief Managing Director, Bharat Sanchar Nigam Limited, Chandra Lok Building, 36 Janpath, New Delhi - 110001
2. The Chief Managing Director, Bharat Sanchar Nigam Limited, Chandra Lok Building, 36 Janpath, New Delhi - 110001
3. The Chief General Manager, Bharat Sanchar Nigam Limited, Bihar Circle, Patna
4. The General Manager, Telecom District, Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Murli Dhar, Advocate

For the Respondents : Mrs. Renuka Sharma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE JUSTICE SMT. ANJANA MISHRA)

Date: 21-09-2016

The present review application has been filed by the appellant in LPA No.237 of 2014, which was filed against the order, dated 19.11.2013, passed by a learned single Judge of this Court, by which the learned single Judge had declined to interfere in the order, dated 13.05.2011, passed by the General Manager, Telecom, Bhagalpur, cancelling the tender submitted by the petitioner, issued vide Tender No.039/CAMC, dated 24.08.2010, for repairing of E/As.

2. The matter having been carefully considered by the



learned single Judge, the Letters Patent Appeal, challenging the order, dated 19.11.2013, passed by the learned single Judge, was not entertained, on the premise that the Court did not find any illegality in the decision of the respondents to cancel the earlier process of tender and had decided to issue the fresh NIT in which the writ petitioner/appellant had been permitted to participate. The appellate court, in the *intra* Court appeal, has also held in similar terms. The review petitioner now seeks a further indulgence by this Court to reconsider the aforementioned decision, which stands concluded by the order passed in the *intra* Court appeal, stating that there is an error apparent on the face of the record and is also bad for the reason that *Annexure-6* and *Annexure-8* have not been considered.

3. Having heard learned counsel for the review petitioner and on perusal of the judgment under review, it appears that the matter has been decided on the well settled principle of law that the discretionary power exercised under Article 226 of the Constitution can be exercised only on definite ground of *mala fide* and when the action of the respondents has already been held to be reasonable and fair, the question of interference by this Court in contractual matters does arise at all. This Court has categorically referred to the judgment of the Apex Court, especially the case of

Arun Kumar Agrawal v. Union of India, reported in (2013) 7 SCC 1, wherein the Court has held that “Court cannot sit in judgment over commercial or business decision taken by State or its instrumentalities which has been duly taken after evaluating and assessing the monetary and financial implications, unless the decision is in clear violation of statutory provisions or is perverse or is taken for extraneous considerations or improper motives.”

4. The contention of the review petitioner that such documents, which relate to disappearance of the file, have not been considered, is wholly misconceived as the petitioner has failed to establish arbitrariness on the part of the respondents inasmuch as the decision to cancel the tender process was fully fair and the petitioner was permitted to participate in the fresh tender process.

5. Accordingly, we find no merit in this review application. It is, thus, dismissed.

(I. A. Ansari, CJ)

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.10.2016
Transmission Date	