

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13580 of 2015

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M/s Singh Construction Pvt. Ltd., through its Managing Director Shailesh Kumar Singh son of Late Baleshwar Singh resident of New Satpura Colony, Post Office Lane, Aghoriya Bazar, Muzaffarpur, P.S. Kazi Mohammadpur, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Director, Road Construction Department, Government of Bihar.
3. The Chief Engineer, North Bihar Road Construction Department, Darbhanga.
4. The Superintending Engineer, Road Circle, Muzaffarpur.
5. The Executive Engineer, R.C.D., Road Division No. 1, Muzaffarpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy

For the Respondent/s : Mr. Krishna Chandra Jha, AAG-14

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-07-2016

Heard Mr. Jitendra Kumar Roy, learned counsel for the petitioner and Mr. Krishna Chandra Jha, learned A.A.G.-14.

The petitioner is aggrieved by the order dated 19.6.2014 passed by the Executive Engineer whereby finding default in the completion of the work allotted to the petitioner for widening and strengthening of the road running from Digha Chowk to Butler Chowk (N.H.-28) between 0 to 8.2 Kilometres that he has been debarred from participating in any future tender.

It is in consideration of the matter in dispute that this Court on 1.7.2016 directed for fresh measurement to be carried out in presence of the Executive Engineer and the petitioner and be placed on record by way of a supplementary counter affidavit to be filed



by the Executive Engineer- respondent no.5. Mr. Roy with specific reference to the statement made at paragraph-7 and 8 of the supplementary counter affidavit has stated that the respondents even while admitting to completion of work have stated that since it has returned to its concrete form due to water logging in the area that approval is sought from the headquarters which is awaited and the respondents yet continue to hold the petitioner in default. He further in response to the statement made in paragraph-10 of the supplementary counter affidavit submits that whatsoever poles remained for installation, have also been installed. According to Mr. Roy the 15 poles have also since been installed by the petitioner and measurement was carried out yesterday by the Junior Engineer which can be verified. He thus submits that where the respondents themselves admit to the completion of the road except that due to water logging it has returned from bituminous to concrete form and the petitioner has since taken steps in installation of the electric poles, there is no occasion to continue with the debarment orders.

Mr. Jha, learned counsel for the State submits that the incomplete stretch of the road measures 1350 Metres has changed from bituminous surface to concrete surface due to water logging but the same is awaiting approval of the headquarters.

In view of the stand taken by the respondents as regarding the pending work at paragraphs- 7 to 10 of the counter affidavit and

considering the submission of Mr. Roy regarding installation of the poles, in my opinion there is no reason to continue with the debarment order which is operating against the petitioner for the last two years.

In the circumstances so discussed in the supplementary counter affidavits, the order of debarment impugned at Annexure-1, has exhausted itself and is accordingly set aside.

A prayer has been made by Mr. Roy, learned counsel for the petitioner to appropriately direct the respondents to make payment of the admissible dues of the petitioner.

In my opinion, if the work is completed, there should be no reason to delay on the payment of admissible dues of the petitioner and the respondents are directed to consider the prayer of the petitioner for payment of admissible dues and to dispose of the same within a period of three months from the date of receipt/production of copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

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