

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14533 of 2015

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M/s S. S. Joint Venture, Triveni Niwas, Flat No-101, R.K. Avenue Road, Rajendra Nagar, Patna, through its Partner Sanjeet Kumar, S/o Rajendra Singh, R/o Village-Utrain, P.S.- Konch, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Bihar, Patna.
4. The Chief Engineer, South Bihar, Road Construction Department, Bihar, Patna.
5. Superintending Engineer, Magadh Road Circle, Road Construction Department, Gaya.
6. Executive Engineer, Road Construction Department, Sherghati, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 24-02-2016

Heard learned counsel for the parties.

The petitioner is aggrieved by the order contained in



Memo No. 5529 dated 29.08.2015 by which the Empowered Committee has cancelled the bid after initially taking a decision in his favour on 14.08.2015 with respect to construction work of road from Imamganj Bazar to Pakri via Kothi Salaiya Road, Sherghati in connection with NIT No. 1, RCD/CR and Division Sherghati 2015-16.

Learned counsel for the petitioner submits that after detailed consideration, upon the petitioner satisfying the requirements and fulfilling all the requisite qualifications, his bid was accepted by the Empowered Committee by order dated 14.08.2015. However, later on the same Committee has reviewed the decision and issued an order cancelling the allotment work in favour of the petitioner which is impugned herein as contained in Memo No. 5529 dated 29.08.2015. Learned counsel submits that the same has been done behind the back of the petitioner without any notice or opportunity to be heard which is impermissible. Learned counsel has further submitted that from the order impugned it would appear that two tenderers, who were unsuited in the technical bid, had complained with regard to rejection of their bid wrongly which was the major cause of action for such review but ultimately the Committee has been swayed by the direction of the departmental Minister also as would be clear from the order itself. Learned

counsel submits that the petitioner having been found fit and work order allotted to him, cannot be made to suffer for any arbitrary and unreasonable action of the respondents who are State authorities.

Learned counsel for the State has filed counter affidavit from which he submits that besides the reasons mentioned in the impugned order, the lead partner of the petitioner's firm was inherently incapable and incompetent even to take part in the tender and thus the action of the respondents cannot be faulted as now a fresh NIT has been issued pursuant to which, if the petitioner is inclined, he may also take part. Learned counsel however, is also not in a position to controvert the fact that prior to the Committee reviewing its decision, the petitioner was not given any notice or opportunity of being heard.

Learned counsel for the petitioner, by way of reply, submits that the stand of the respondent State authorities is also erroneous as the petitioner does not suffer from any such inherent disqualification.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court, without going into the detailed merits of the matter, is unable to uphold the action of the respondents in reviewing the decision taken in favour of the petitioner on 14.08.2015 by which the tender work was allotted to



him behind his back without giving him any opportunity either to show cause or to explain his position. Thus, there being violation of the basic principles of natural justice, has rendered the subsequent decision against the petitioner, as contained in Memo No. 5529 dated 29.08.2015, unsustainable in the eyes of law and accordingly, the same is set aside. However, this would not automatically lead to the award of the tender in favour of the petitioner as what has come before the Department/Court justifies that the petitioner be given a proper show cause detailing all the charges against him and thereafter upon him submitting a show cause within the time stipulated, a decision be taken in the matter by the Empowered Committee in accordance with law. The question of issuing fresh NIT shall be subject to the decision by the Committee in terms of the directions hereinabove.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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