

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No. 330 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 13274 of 2015

Along with

Interlocutory Application No. 5352 of 2016

In

Civil Review No. 330 of 2016

=====

Santosh Kumar Singh, Son of Shri Ganesh Prasad Singh, resident of Mohalla -
Ashok Nagar, Bhatt Bigha, Police Station Rampur, District – Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Road Construction Department, Secretariat Building,
Government of Bihar, Patna.
3. The Engineer-in-Chief-Cum-Additional Commissioner-Cum- Special Secretary,
Road Construction Department, Secretariat Building, Government of Bihar,
Patna.
4. The Chief Engineer, South Bihar Upbhadg, Road Construction Department,
Government of Bihar, Secretariat Building, Patna.
5. The Superintendent Engineer, Magadh Road Circle, Road Construction
Department, Gaya, District Gaya.
6. The Executive Engineer, Road Construction Department, Sherghati Division,
Sherghati, District Gaya.
7. The Executive Engineer, Rural Works Department, Imamganj Division, District
Gaya.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate. Mr. Ashok Kumar Dubey, Advocate.
For the State	:	Mr. Kaushal Kumar Jha, AAG-8

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 30-09-2016

Heard Mr. P.K. Shahi, learned Senior counsel

assisted by Mr. Ashok Kumar Dubey, learned counsel for the petitioner and Mr. Kaushal Kumar Jha, learned A.A.G.-8 for the State.

The present application has been filed seeking review/recall of the order dated 29.03.2016 passed in C.W.J.C. No. 13274 of 2015, by which the writ petition filed by the petitioner was disposed off with certain observations.

Learned counsel for the petitioner submits that the writ petition had been filed for quashing the office order contained in Memo No. 407 dated 27.07.2015, issued by the respondent no. 6, by which the work allotted to the petitioner has been cancelled but the Court had disposed off the writ petition by order dated 29.03.2016, without interfering with the same.

It is submitted that due to inadvertence, other connected reliefs were not argued before the Court. Learned counsel submits that the primary reason for the Court not to interfere in the matter was that a finding was recorded, that it was an admitted position that the 3 NSCs totaling Rs. 9,00,000/- not having been actually and physically deposited along with the letter submitted relating to deposition of Additional Performance Security, the authorities could not be faulted for cancelling the work allotted in favour of the petitioner. He submits that from the terms of the NIT, it



is clear that the validity of the bid/offer is only for 120 days unless specifically requested for extension either by the employer or extended by the bidder, and in the present case Rs. 9,00,000/- by way of NSC was part of security amount deposited with another tender submitted by the petitioner for G.T. Road Dobhi to Ghoraghat work and the last date of submission of bid was 06.12.2014 and accordingly, the validity period of the bid was only till 05.04.2015. Thus, after the date, the bid could not have been considered to be a valid/live bid.

It is further submitted that besides the legal position aforesaid, the petitioner had also intimated to the authorities by letter dated 11.06.2015 with regard to his specific non extension of the validity period and also for return of the security amount to him. It is submitted that, thus, under the circumstances, the adjustment of the NSC already lying with the same authority which was considering the bid in question, after the other bid having been withdrawn/automatically coming to an end, the respondent authority could not have refused such adjustment as the instrument was lying in the custody of the same person, who was considering the present bid.

Though learned counsel for the State has not been able to controvert such factual position, but has submitted that the amount could become free to be returned only after allotment of work

to the successful bidder. Such contention cannot be accepted either on facts or in law in the background of the admitted factual position in the present case as enumerated hereinabove.

For the reasons aforesaid, this Court finds that sufficient ground has been made out for review/recall of the order dated 29.03.2016 passed in C.W.J.C. No. 13274 of 2015 and for rehearing of the writ petition on merit.

Accordingly, the application stands allowed. The order dated 29.03.2016 passed in C.W.J.C. No. 13274 of 2015 is recalled and the writ petition stands restored to its original file and number.

As agreed between the parties, let the writ petition be now listed before an appropriate Bench after obtaining permission of Hon'ble the Chief Justice. Learned counsel for the petitioner is at liberty to make a motion for early hearing before the Bench to which the case is assigned, considering the fact that the matter is urgent as it relates to a contract of the year 2014 having ramification on public money.

It goes without saying that the interim order dated 13.01.2016 in the writ petition stands revived.

The petitioner is further given liberty to file appropriate Interlocutory Application(s) in view of the

developments, which may prejudice him, and which have taken place during the interregnum period.

Interlocutory Application No. 5352 of 2016 stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	