

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12862 of 2016

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Systematic and Advance Construction Pvt. Ltd. having its registered office H-112, Harmu Housing Colony, P.O. Harmu, P.S.- Armora Town & District Ranchi (Jharkhand) and its Administrative Office 2nd Floor, B-Block, Moti Bhawan, Exhibition Road, P.S. Gandhi Maidab, Town & District Patna (Bihar) through the Managing Director Mr. Panjkaj Kumar son of Mr. Ajay Kumar resident of Flat No. 101, riveni Niwas, R.K. Avenue Road, Rajendranagar, P.S. Kadamkuan, Town and District- Patna (Bihar).

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The State of Bihar through the Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The Engineer in Chief, Rural Works Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Rural Works Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, Works Circle, Rural Works Department, Aurangabad, Bihar, Patna.
6. The Executive Engineer, Works Division, Rural Works Department, Jehanabad, Bihar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate
For the State : Mr. Ajay, G.A. 5

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

4 17-10-2016 Head learned counsel for the petitioner and learned Government Advocate No.5 for the State.

The petitioner seeks quashing of the order dated 1.8.2016 by which the petitioner has been declared defaulter and debarred from participating in future tenders of the State.

The petitioner was awarded a contract for completion of three works under a single agreement dated 4.8.2014 under which the work was to be completed by 3.8.2015. The petitioner was debarred by the impugned order dated 1.8.2016 passed by the Engineer-in-Chief, Rural Works Department, Government of Bihar in terms of the Government decision that if the work under



contract has not been completed up to 80% within the period specified then the contractor would be liable to be declared defaulter and debarred from participating in future tenders.

Learned counsel for the petitioner relies upon a letter dated 28.7.2016 of the Executive Engineer, Rural Works Department, Works Division, Jehanabad by which he had reported to the Private Secretary of the Minister, Rural Works Division, Government of Bihar that the petitioner had already completed 80% of the works.

In the counter affidavit the said fact has not been denied but it is sought to be urged that out of three works the petitioner has not completed 50% of work of one of the three.

It is difficult to accept the aforesaid proposition of learned Government Advocate. If three works are covered by a single agreement then the question of having completed or done 80% has to be considered with respect to the entire agreement and not sub-divided into different types of work under the agreement. It is admitted by the letter aforesaid of the Executive Engineer and not denied in the counter affidavit that the petitioner had completed 80% of the works.

In the said circumstances, passing of order of debarment is contrary to the policy decision of the Government itself.

In the light of the aforesaid, the writ application is allowed and the impugned order dated 1.8.2016 is quashed.

(Ramesh Kumar Datta, J)

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