

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13508 of 2016

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Tathagat Construction Pvt. Ltd., Rajupati, Dumra, Sitamarhi through its Proprietor
Madhup Kumar Singh Son of Shambhu Nath Prasad Singh Resident of Adami
Niwas, Rajopatti, Dumra Road, P.O. + P.S. + District - Sitamarhi.

.... Petitioner/s

Versus

1. The Principal Secretary Rural Works Department, Government of Bihar, Patna.
2. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer, Rural Works Department, Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Work Circle, Vaishali.
5. The Executive Engineer, Rural Works Department, Work Division, Mahua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
Mr. Kundan Kumar, Advocate

For the Respondent/s : Mr. Ravindra Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL JUDGMENT

Date: 02-09-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks quashing of the order dated
27.6.2016 issued by the Engineer-in-Chief, Rural Works Department,
Bihar to the extent it relates to the petitioner. By the said order the
petitioner has been declared defaulter and debarred from future
tenders.

Learned counsel for the petitioner seeks to rely upon
the Circular dated 30.7.2013 and to submit that 80% work has to be
completed as per the aforesaid circular and the petitioner has

completed 80% of the physical work.

On a consideration of the impugned order it is evident that the work was to be completed by 30-12-2014 but on the date of debarment by the order dated 27.6.2016 the petitioner had completed only 80% of physical work and 66.30 of the financial work. It is thus evident that the petitioner has not even completed 80% financial work not only till the date of completion but even on the date of debarment or, as a matter of fact, till today.

The only ground taken by the petitioner is that no show cause was issued to the petitioner till the order of debarment and further that the petitioner has completed 80% of the physical work and secondly, the bill of the petitioner of December, 2014 has been paid only recently in the month of April, 2016.

It is true that before passing any adverse order show cause notice ought to be issued but in the present matter the petitioner does not contest the fact that he has not completed 80% of the financial work even till today.

So far as the question of compliance of natural justice is concerned, the same cannot be a ritual when admittedly the petitioner has not completed 80% of the financial work even till today.

So far as the question of payment of bill is concerned,

the bill is of the period when the petitioner should have completed the entire work and thus any delay in the payment of such bill cannot be a ground for non-completion of work within the time frame.

The petitioner is thus unable to show that there was any default on the part of the respondents which led to delay in the completion of the work or that it has completed 80% financial work and come in the category laid down in the Department's circular.

In the above circumstances, this Court does not find any merit in the writ application. It is, accordingly, dismissed.

It is made clear that it shall be open to the petitioner to approach the authorities for removing its name from the list of debarred contractors after completing the substantial portion of work.

(Ramesh Kumar Datta, J)

S.Pandey/-

AFR/NAFR	
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