

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11517 of 2012

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1. Spr Infrastructure (India) Ltd. Having Its Registered Office At 96/C 2nd Floor,
Tej House, Vengal Rao Nagar, Hyderabad - 500038 Through Its General Manager,
P. Hamumantha Rao Son Of P. Surya Rao

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Rural
Works , Government Of Bihar, Patna
2. Chief Engineer-2, Rural Works Department, Bhagalpur
3. Superintending Engineer, Rural Works Department, Works Circle, Bhagalpur
4. Executive Engineer, Rural Works Department, Works Division, Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri

For the Respondent/s : Mr. Anil Kumar Verma, A.C. to A.A.G.-9

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 21-11-2016

Heard Mr. Raju Giri for the petitioner and A.C. to
A.A.G.-9 for the State. A supplementary counter affidavit, after
service, is filed which is taken on record.

The petitioner is a private limited company engaged in
the construction work. It is also a registered government contractor.
The respondent State issued an advertisement in the year 2010 for
construction of roads under the Pradhan Mantri Gram Sarak Yojna
(PMGSY). The petitioner applied and was adjudged as the most
suitable bidder and was accordingly awarded the contract inasmuch as
the work order in regard to different packages was issued by the
Executive Officer. Having found that the petitioner defaulted in due



discharge of the contract liabilities, the respondent, invoking the relevant clause of the General Conditions of Contract (G.C.C.),, rescinded the contract and passed the consequential order for forfeiting the security deposit of the petitioner. It is also stated that the bank guarantee furnished by the petitioner was also forfeited. Diverse submissions have been advanced by Mr. Giri to assail the order relying on the case of *M/s NCC Ltd. versus State of Bihar [2013 (1) P.L.J.R. 952]*.

A counter affidavit/supplementary counter affidavit is filed on behalf of the State respondents wherein it has been stated that after the rescinding of the contract awarded to the petitioner, the work has been allotted to different agencies inasmuch as the construction of work under those packages has already been completed and the payments have been made.

Mr. Giri fairly states that now the question only remains to consider whether the respondents are justified in forfeiting the security deposit as well as the bank guarantee, mobilization advance etc issued in favour of the petitioner. The State Government has now constituted a tribunal under the provisions of Bihar Public Works Contracts Dispute Arbitration Tribunal Act, 2008 where the matter can be agitated. It has been submitted by Mr. Giri that in another cognate matter, similar stand has been taken by the respondent State.

The State has taken a stand that adequate opportunity was granted to the petitioner to make the deficiencies good in spite thereof the petitioner failed to complete even the required percentage of work although an extension, on request, was granted to the petitioner.

On a consideration of the rival submissions of the parties, in my view, the petitioner should approach the appropriate authority for resolution of the said dispute in accordance with law. The matter may also be raised before the Tribunal constituted by the State Government for realization of the disputes like raised in the present application.

The writ application is disposed of granting the petitioner liberty to approach before the appropriate authority/forum/tribunal for ventilation of its grievance in accordance with law.

(Kishore Kumar Mandal, J)

Pankaj/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.11.2016
Transmission Date	