

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10235 of 2016**

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Daisy Kumari, Daughter of Santosh Kumar, resident in House No.- 126,  
Bagdulhan, Hajipur, P.S.- Hajipur, District- Vaishali.

.... .... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Urbans Development & Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urbans Development & Housing Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Executive Engineer, District Urban Development Agency, Vaishali.
5. The District Magistrate-Cum- Chairman, District Urban Development Agency, Vaishali.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Durga Nand Jha  
For the State : Mr. Chitranjan Sinha, AAG-2  
Mr. Niraj Kumar Sinha, AC to AAG-2

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**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA**  
**ORAL ORDER**

9      21-10-2016                      Heard learned counsel for the petitioner and  
  
learned counsel for the State.

The petitioner seeks a direction for quashing the tender notice dated 11.6.2016 for Group Nos. 4 and 6 of the tender notice No. 04/2-15-16 which had been earlier allotted to the petitioner and also for quashing the letter dated 1.6.2016 by which the contract of the petitioner has been cancelled.

A tender notice was published for construction of drainage, beautification of tank and other works under the Chief Minister Urban Development Project by the Executive



Engineer, DUDA, Vaishali by Tender Notice No. 04/2015-16 for as many as 22 works out of which Sl./ Group Nos. 4 and 8 were reserved for unemployed engineers. The petitioner being unemployed engineer applied against the said Sl/Group Nos. 4 and 8 quoting a rate 10% below the scheduled rate. Since several successful tenderers were found to have submitted 10% below the scheduled rates, a draw of lots was held on 29.4.2016 in which the petitioner came out successful. The petitioner thereafter submitted the copy of agreement duly signed by her along with four drafts for the two works against advance money and performance guarantee on 9.5.2016 in favour of the Executive Engineer, DUDA, Hajipur, Vaishali issued by the State Bank of India, copies of which have been brought on the record.

Earlier the petitioner had applied before the Rural Works Department for registration as a contractor under the Contractor Class-III type Unemployed Engineer on 12.1.2015, pursuant to which the certificate of registration was also issued by the Rural Works Department, Government of Bihar showing the registration of the petitioner as Class-III valid for the period from 12.1.2015 to 11.01.2020 but not specifically stating that the registration was as an unemployed



engineer.

The Executive Engineer, DUDA, Hajipur, Vaishali by his letter dated 24.5.2016 alleged that the petitioner had not deposited either the drafts or the advance amount and had not even begun the work which showed that she has no interest in the work and directed to do so and complete the work within the time-frame. To the said letter the petitioner replied indicating the details of the amount and the numbers of the four drafts and also the fact that she had deposited not only the drafts but also the agreement duly signed by her before the Executive Engineer and she had started the work but the duly signed agreement had not been given to her and a false allegation had been made that she had no interest in the work. Thereafter by the impugned letter dated 1.6.2016, the contract of the petitioner has been cancelled on the ground that she had applied against unemployed Engineer category but her registration was not of unemployed Engineer and further that the FDRs that she claims to have submitted have not been received either through post or by some person.

Learned counsel for the petitioner submits that the petitioner having been considered technically qualified at the stage of technical evaluation of the bids after considering



her registration certificate, there was no occasion for the respondent-Executive Engineer, DUDA, Vaishali, Hajipur to have turned around and taken a different view in the matter without seeking any explanation from the petitioner in this regard. It is also submitted that the allegation of non-deposit of FDRs by the petitioner is completely false and unjustified as the details of the same had been submitted on 28.5.2016 showing their numbers and the photo copies of the drafts have also been annexed in the writ petition.

Learned counsel for the State has sought to justify the action of the Executive Engineer submitting that the registration certificate does not mention that the petitioner is an unemployed Engineer.

I have considered the submission of learned counsels for the parties. From the sequence of events, it is quite evident that the Executive Engineer, DUDA, Vaishali, Hajipur appears to have been bent upon to somehow or the other deprive the petitioner of the benefit of contract. Once the petitioner had purchased the four drafts in the name of the Executive Engineer, there was no occasion for the petitioner to have not submitted the bank drafts and the allegation of the Executive Engineer appears to be blatantly false.



So far as the question of registration is concerned, it is evident and there is no denial in the counter affidavit that the petitioner's contractor registration certificate, which is contained in Annexure-3 to the writ application, is false and fabricated and the same clearly shows that she had applied for the category of Contractor Type Unemployed Engineer and not merely for being registered as Class-III, and therefore it is not open to the respondents to take benefit of failure on the part of the Government Department to have issued the registration certificate but not in a proper manner. As a matter of fact, since the tender was submitted along with the certificate and she was found fit at the technical evaluation stage, if at all there was any suspicion in the mind of the Executive Engineer, he ought to have got the certificate of registration verified from the Rural Works Department which had issued the same with regard to contractor type being unemployed engineer.

Thus, for both the aforesaid reasons, this Court does not find any justification in the cancellation of contract of the petitioner by order dated 1.6.2016 for Group Nos. 4 and 8 and in issuing the tender notice dated 11.6.2016

The writ application is, accordingly, allowed.



The impugned order dated 1.6.2016 of the Executive Engineer, Respondent No. 4 is quashed and the subsequent tender notice dated 11.6.2016 for Group Nos. 4 and 8 is also quashed.

The respondents are directed to proceed further in the matter by permitting the petitioner to complete the work under the agreement and also provide the signed copy of the agreement to the petitioner within a period of two weeks from the date of receipt/production of a copy of this order.

**(Ramesh Kumar Datta, J)**

S.Pandey/-

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