

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5918 of 2016

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M/s Alectra Construction Ltd. through its director, Mr. Dhananjay Kumar,
New Colony, Dharampur, Ward No. 3, Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department,
Govt. of Bihar, Bishwashraiya Bhawan, Bailey Road, Patna
2. The Engineer - in - Chief, RCD, Govt. of Bihar, Bishwashraiya Bhawan,
Bailey Road, Patna
3. The Chief Engineer, N.H. Wings North Bihar at Patna, Govt. of Bihar,
Bishwashraiya Bhawan, Bailey Road, Patna
4. The Superintending Engineer, N.H. Circle, Muzaffarpur
5. Executive Engineer, N.H. Division, Chhapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Singh No.1
For the Respondent/s : Mr. Sunil Kumar Mandal- S.C.3
Mr. Bipin Kumar, A.C. to S.C.3
Mrs. Neelam Kumari, A.C. to S.C.3

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR
DATTA
ORAL ORDER

3 26-09-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks quashing of the order dated
10.12.2015 passed by the Engineer-in-Chief, Road Construction
Department, by which he has debarred, inter alia, the petitioner
from participating in future tender.

It is submitted by learned counsel for the petitioner that
although the work was to be completed by 04.09. 2014 but there
were so many obstructions from the very beginning which aspect



of the matter has also been accepted by the respondents in the recommendation made by the Executive Engineer for extension of time, including the fact that the item quoted had been on the basis of bringing the materials from the Mines from Bihar but the quarry has been closed by the orders of the Government. The Chapra Rack Point was taken for bringing the materials but the said Rack Point was also closed by the Government of India. The Forest Department had also closed the work for about six months on account of the fact that the compensation had not been paid by the Government for cutting the trees. Apart from that, it is also evident from various correspondences made, which are on the record, that on account of delayed payment of compensation, the construction work could not be taken up and Bitumen was not supplied on time by the Indian Oil and H.P.C.L.

Learned counsel for the State has sought to justify the action of the respondents but the fact remains that there has been so much laches and other good reasons for delay in completion of the work and it is not open to the respondents to issue the order of debarment against the petitioner in spite of their own laches in the matter. The same, as rightly pointed out by learned counsel for the petitioner, is contrary to the decision of this Court in the case of M/s. NCC Ltd. vs. The State of Bihar and others: 2013 (1) PLJR

952.

The writ application is, accordingly, allowed and the order of debarment dated 10.12.2015 is quashed. Only if the facts are adjudicated by a proper forum, i.e., a Court or an Arbitral Tribunal, then it shall be open to the respondents to take steps for fresh action against the petitioner in accordance with law.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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