

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17216 of 2013

M/S Srivastava Construction, through it's proprietor, Mr. Manoj Kumar Srivastava son of Sh. Nand Kishor Prasad, having registered Branch Office at Basant Bihar (Sariswa Road), Post - Bettiah, Police Station - Bettiah Mufassil, District - West Champaran

.... Petitioner

Versus

1. The Bihar State Power (Holding) Company Limited through it's Chairman-Cum-Managing Director, Vidyut Bhawan, Bailey Road, Patna
2. The Chief Engineer (Commercial), Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna
3. The Managing Director, North Bihar Power Distribution Company Limited, Patna
4. The General Manager-cum-Chief Engineer, Tirhut Electric Supply Area, Muzaffarpur
5. The Electrical Superintending Engineer, Electrical Supply Circle, Motihari, District - East Champaran
6. The Electrical Executive Engineer, Electrical Supply Circle, Motihari, District - East Champaran
7. The Assistant Electrical Engineer, Electrical Supply Circle, Motihari, District - East Champaran
8. The Junior Electrical Engineer, Electrical Supply Circle, Motihari, District - East Champaran
9. The Account Officer, Electrical Supply Circle, Motihari, District - East Champaran
10. The Branch Manager, State Bank of India, Bettiah Main Branch, Bettiah, District - West Champaran
11. The Union of India, Ministry of Power, through the Secretary, Government of India, Shastri Bhawan, New Delhi

.... Respondents

Appearance :

For the Petitioner : Mr. Manoj Kumar,
Mr. Chandan Kumar,
Ms. Namrata Singh, Advocates
For Res. Nos. 1 to 9 : Mr. Ratan Prasad Sinha
For Union of India : Mrs. Nivedita Nirvikar, CGC
For Respondent-Bank : Mr. Kaushlendra Kr. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-05-2016

Heard learned counsel for the petitioner and learned
counsel for the respondent- Bihar State Power (Holding) Company
Limited.

2. The present writ petition has been filed against the bank guarantee amounting to Rs. 11,70,169/- sought to be invoked by the Chief Engineer (Commercial, (respondent no. 2); for a direction to the respondents not to terminate the contract; for a direction to the respondents to settle the amount due to the petitioner; and for connected reliefs.

3. Learned counsel for the petitioner submits that having participated in the tender for installation/replacement of meters vide tender notice no. 35/PR/BSEB/2012 which was awarded to the petitioner vide letter no. 1099 dated 04.07.2012 by tendering performance guarantee by way of bank guarantee of Rs. 11,70,169/- , the petitioner commenced the work and partially completed the same, but work, however, could not be completed for different reasons beyond its control. It is submitted that despite extension of time for completion of work being granted, the petitioner was made to forfeit performance guarantee by invocation of the bank guarantee in terms of the letter dated 19.02.2013 issued by the respondent-Power Company. It is further submitted that the respondents have already admitted some of the petitioner's bills (Annexure-14 series).

4. In the above view of the matter, this writ petition is disposed of with consent of the petitioner, granting it liberty to approach the Chief Engineer (Commercial), Bihar State Power

(Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna (Respondent No. 2) with a fresh representation for redressal of its grievances. If any such representation is filed within a period of two weeks from today, the same shall be considered and disposed of, ensuring payment to the extent found due to the petitioner, within a period of six weeks from the date of receiving the petitioner's representation. Any delay in payment of the admitted amount beyond the stipulated period as stated above, shall entitle the petitioner to receive payment together with simple interest at the rate of 9% per annum on the admitted dues calculated from the date when the amount became due till the date of its actual payment. In case the petitioner's claim is found inadmissible, whether in whole or in part, the petitioner's representation shall be disposed of by a speaking order in that regard. The petitioner shall also be at liberty to raise the issue of forfeiture of its bank guarantee amounting to Rs. 11,70,169/- .

5. It is made clear that this Court is not expressing any opinion on the merits of the claim of the petitioner.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.05.2016
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