IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13497 of 2014

==

Krishna Deo Singh son of Shyam Sunder Singh resident of village and P.O. Sirkharya, Via Tulapatganj, P.S. Jhanjharpur, District - Madhubani

.... Petitioner

Versus

1. The State of Bihar
2. Principal Secretary, Department of Urban Development and Housing, Government of Bihar, Patna
3. Chief Engineer, Department of Urban Development and Housing, Government of Bihar, Patna
4. Superintending Engineer, Bihar Urban Development Agency, Department of Urban Development and Housing, Government of Bihar, Patna
5. Executive Engineer, District Urban Development Agency, Madhubani
6. Executive Officer, Nagar Panchayat, Jhanjharpur, Madhubani
7. Tender Committee through its Chairman i.e. Mr. Sona Mandal, Chairman of Jhanjharpur Nagar Panchayat, Jhanjharpur, Madhubani
8. Vice Chairman, Vijay Kumar Das, Jhanjharpur Nagar Panchayat, Jhanjharpur, Madhubani

.... Respondents

==

Appearance:

For the Petitioner: Mr. Ajay Kumar Thakur, Advocate
Mr. Imteyaz Ahmad, Advocate

For the Respondents: Mr. Harsh Singh, AC to GP 2

==

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-07-2016

Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner and Mr. Harsh Singh, AC to GP 2 for the respondents.

2. The present writ petition has been filed for setting aside the order as contained in letter No. 603 dated 10.06.2014 issued under the signature of the Superintending Engineer, Bihar Urban Development Agency, Department of Urban Development and Housing, Government of Bihar, Patna by which the e-tender of the petitioner was cancelled for alleged violation of Clause 22 of the terms and conditions of the tender.

3. According to the petitioner the short facts of the case are that in pursuance of an advertisement issued by the Executive Engineer, Nagar Panchayat, Jhanjharpur, Madhubani, the petitioner participated in the tender for construction of PCC road from Hospital Road Railway Line upto the house of Arun Das for a total contract value of Rs. 51,83,390/-. Under clause 22 of the terms and conditions of the contract, the petitioner was required, *inter alia,* to submit a payment certificate equivalent to 1/3rd of the tender value of similar work done by the petitioner. Such certificate was required to be issued by the competent authority disclosing the details of income tax, sales tax, royalty, net payment and gross payment. Pursuant to such condition the petitioner submitted two certificates, one showing gross payment of Rs. 21,03,980/- (Annexure-16) and the second a gross payment of Rs. 26,27,783/- (Rs. 13,63,283/- + Rs. 12,64,500/-) (Annexure-17).

4. The main contention of Mr. Ajay Kumar Thakur, learned counsel for the petitioner, is that the respondents have acted arbitrarily in rejecting the petitioner's tender on specious grounds as the two certificates submitted by the petitioner as aforesaid duly complied with the requirements of Clause 22 of the terms and conditions of the contract.

5. Mr. Harsh Singh, Assistant Counsel to GP-2 appearing for the respondents, on the other hand, submits that no fault can be found with the action of the respondents. As regards the first certificate

for Rs. 21,03,980/- an enquiry was made for the purpose of verification, in response to which it was informed by the concerned Executive Engineer by letter No. 344 dated 05.06.2014 (Annexure-A to the counter affidavit) with regard to the payment certificate issued to the petitioner during the financial year 2012-13 that the work of PCC road was done to the extent of 34.93 cu.m. for a value of Rs. 1,84,758/- only. It is therefore submitted that the value of work of PCC road fell far short of the requirement of 1/3rd of the value of the tender, as the petitioner had applied for the work of PCC road construction.

As concerns the second certificate for the aggregate value of Rs. 26,27,783/-, the same did not also fulfil the criteria laid down in the said Clause 22 which specifically required that the certificate should state the details of income tax, sales tax, royalty etc., and these material details were absent in the certificate.

6. Having heard the parties and on a consideration of the materials on record, this Court finds the writ petition to be devoid of merit. While the certificate for Rs. 21,03,980/- (Annexure-16) prima facie appears to satisfy the requisite conditions, yet it has been found on enquiry made by the respondents that the payment included therein with respect to PCC work was only to the extent of Rs. 1,84,758/- which thus fell miserably short of 1/3rd of the tender value of work of similar nature, namely, PCC road work.

The other certificate furnished for an aggregate value of

Rs. 26,27,783/- on the face of it did not disclose the requisite details with regard to income tax, sales tax, royalty etc., and has thus rightly not been accepted by the respondents.

7. In the above view of the matter, the writ petition stands dismissed.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.07.2016
Transmission Date	N.A.