

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.462 of 2017

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M/s A2Z Infra Engineering Ltd., formerly known as M/S Maintenance and Engineering Services Ltd., having its Registered office at 0- 116, First Floor, Shopping Mall, DLF City, Phase-I, Gurgaon, 122002, Haryana, through its Vice President (Project), Mr. R.. Saini, aged about 56 years, S/o Sri Chint Ram Saini, resident of H. No. 312, Sector- 30, Faridabad (Haryana), P.S.- Sector-31, District-Faridabad.

.... Petitioner/s

Versus

1. The State of Bihar, through the Energy Secretary, Energy Department, 8-Daroga Rai Path, Patna- 800001.
2. The Chairman-cum- Managing Director, Bihar State Power Holding company Ltd., 1st Floor, Vidyut Bhawan, Bailey Road, Patna – 800001
3. The Managing Director, South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna- 800001.
4. The Chief Engineer, (Project-II), South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna- 800001.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Arun Gaur, Advocate Mr. Ankit Katriar, Advocate Mr. Shakib Ayaz, Advocate
For the Respondents 2 to 4:		Mr. Anand Kumar Ojha, Advocate
For the State		Mr. Arun Kumar, AC to G.P.-1

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-02-2017

Annexure-5 is the order dated 18.11.2016 whose quashing has been sought by the petitioner in the present writ application. By virtue of this order, the South Bihar Power Distribution Company Ltd. has terminated the agreement, which is LOA No. 57/ ADB dated 30.03.2012 of package D (Bhojpur Circle).



2. The order further debars the agency for two years from participating in any tender in South Bihar Power Distribution Company Ltd. from the date of issuance of the order.

3. A preliminary objection is taken by the counsel representing the Power Distribution Company that the agreement itself has made provision for arbitration between the parties. Therefore, the writ may not be the correct remedy in such dispute. Such submission is not seriously objected to or resisted by learned Senior Counsel representing the petitioner because he does accept that looking at the nature of the dispute, the proper remedy may lie before an Arbitrator, for which there is an agreement in existence.

4. Learned Senior Counsel, however, submits that the order of debarment is being treated as a case of black balling the petitioner and it is coming in the way of their participation even in other geographical areas of this country.

5. Counsel for the Power Distribution Company submits that it is not a case of black-listing and that they have decided not to work with the petitioner-company for a period of two years in relation to them and them alone and their decision may or may not bind others in any manner.

6. With a clarification of the stand of the Power Distribution Company, the anxiety of the petitioner that the order in



question is having effect, is for them to explain to the concerned authority. So far as the impugned order is concerned, it goes without saying that it will bind the parties and not the world at large.

7. The writ application stands disposed of with the above observation.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2017
Transmission Date	NA

