

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.19120 of 2016**

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Shiva Kanta Prasad Singh, Son of Shree Kant Singh, resident of village - Baijalpur  
Keso, P.S. Sonapur, District - Saran at Chapra

.... .... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna
3. The Engineer - in - Chief - Cum - Additional Secretary - Cum - Special Secretary, Rural Works Department, Government of Bihar, Patna
4. The Chief Engineer - 3, Rural Works Department, Patna
5. The Superintending Engineer, Rural Works Department, Work Circle, Chapra
6. The Project Manager ( M.R. Cell ), Rural Works Department, Patna
7. Subhash Kumar Shahi @ Munna Shahi, Son of Sharda Nand Shahi, resident of village + P.O. Devpura, P.S. Rasalpur, District - Saran at Chapra

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Rajendra Prasad, Sr. Advocate.  
Mr. Kumar Rajeev, Advocate.

For the Respondent/s : Mr. AJAY, GA-5

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 28-04-2017**

In this petition filed in Public Interest, challenging allotment of a contract made by the respondent no.7 for construction of a road/repairing of a road, this writ petition has been filed and it is contended that one of the conditions in the tender document was that a tenderer should not have any criminal case pending against him.

Interalia contending that three criminal cases are pending against respondent no.7 as are detailed in the writ petition and



suppressing this fact, he filed a false affidavit based on which the contract was awarded to him. It is stated that as the respondent no.7 is disqualified from obtaining the contract thereafter mandamus be issued and the contract be cancelled.

Respondents have filed a detailed counter affidavit and on going through the same, it is seen that the tender notice was published in the year 2015. The last date for submission of tender was 27.03.2015. The tender committee conducted its meeting on 14.07.2015 and found that only one tender has been submitted that also by respondent no.7 and as he was the only qualified candidate and no other candidate has submitted the tender, the government decided to cancel the tender process and retendered it.

Challenging this action of the State Government in re-tendering, respondent no.7 filed a writ petition before this court being CWJC No. 11747 of 2015 and Bench of this court on 21.07.2016 directed that re-tendering process is illegal, the bid of respondent no.7 is directed to be open and the tender finalized in accordance with law. Accordingly, after complying with the direction issued in the writ petition, the tender was finalized in favour of respondent no.7 and in the counter affidavit filed, it is stated that till opening of the tender and finalizing, neither the petitioner or any person informed about the pendency of the criminal case against the petitioner and ignorance of



the same, the government has awarded the tender. It is stated that 40 % of the work has been over. The work is in progress and at this stage, if the tender is cancelled, it would cost not only loss to the public exchequer but the work will also be hindered and delayed.

Keeping in view the aforesaid, the respondent make a submission that at this stage now in this Public Interest Litigation interference should not be made.

Having heard learned counsel for the parties, we are of the considered view that now when the tender has been opened and the work has been awarded and as contended by the respondent that 40% of the work has been over, as is being undertaken by the respondent public interest does not warrant cancellation of the tender on the ground so canvassed and as a vigilant citizen, petitioner should have challenged the award made to respondent no.7 at the very inception of the contract or when the contract was awarded in the year 2015. Having not done so, and having permitted the tender to be finalized, filing the writ petition after one year, we see no reason to make any indulgence into the matter. In case the petitioner feels that by filing a false affidavit, respondent no.7 has taken advantage, this being a criminal offence. The petitioner may initiate criminal proceeding against respondent no.7 if permissible under law.

With the aforesaid observation, finding no case for



indulgence, the writ petition stands dismissed.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

Amit/-

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