

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17244 of 2017

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J. P. Enterprises through its Proprietor Janardan Prasad having its office at 401, B-Block, Capital Tower, Fraser Road, P.S.- Gandhi Maidan, District- Patna.
2. Rajesh Kumar, Son of Sri Narendra Kumar Pandey, Resident of Aamgola, Nakagali, P.S.- Kazi Mohammadpur, District- Muzaffarpur, Bihar.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Regional Chief Engineer, Public Health Engineering Department, Government of Bihar, Muzaffarpur.
4. The Superintending Engineer, Public Health Engineering Department, Circle- Motihari.
5. Executive Engineer, Public Health Division, Motihari.

.... Respondents

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Appearance :

For the Petitioner : Mr. P.K. Shahi, Sr. Advocate.
Mr. Shekhar Singh
Mr. Sumit Kumar, Advocates.
For the Respondents : Mr. Arbind Ujjawal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-12-2017

The present writ petition has been filed for the following
reliefs:

“(A) For quashing the order contained on letter bearing memo no. 2358 dated 20.09.2017 issued under the signature of the Chief Engineer (Design) so far it relates to the petitioners whereby the petitioners M/s J.P. Enterprises in joint venture with Rajesh Kumar have been declared defaulter and have been debarred from participating in tenders further.



(B) For a direction to the concerned respondents to grant extension of period of completion of work under the scheme relating to the contract bearing S.B.D. No. 01 of 2010-11 in view of the facts and circumstances of the case and in view of the fact that the said work has not been completed for the reasons attributable to the concerned respondent authorities.

(C) For any other relief(s) for which the petitioners are entitled.”

2. Mr. P.K. Shahi, learned Senior Counsel appearing on behalf of the petitioners submits that the impugned order is wholly arbitrary and illegal as the same has been passed without any show cause notice to the petitioners. It is further stated that the order of debarment has caused prejudice to the petitioner and that too in the circumstances that the petitioner was incapable of proceeding with the work in absence of permission for road cutting which was to be granted by the respondents themselves.

3. Learned counsel for the respondents states on instruction that permission for road cutting would be given to the petitioners within a week. No instruction however is said to have been received to controvert the stand of the petitioner with regard to non-issuance of show cause notice.

4. Having regard to the nature of reliefs sought and the stand of the respondents, this Court is of the view that the impugned order of debarment in so far as the petitioners is concerned cannot be



sustained and accordingly the same is hereby quashed. In the interest of justice, the respondents shall also grant extension of period of completion of work appropriately, equivalent to the period when the permission for road cutting was sought, upto the date when such permission is granted. The writ petition stands allowed.

5. It is made clear that if the petitioners fail to perform and discharge their duties in terms of the agreement even after grant of permission for road cutting, the respondents would be at liberty to take fresh steps against the petitioners, if so advised, in accordance with law.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
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