

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13388 of 2014

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1. Sunil Kumar, S/o- Sri Dwarika Prasad, R/o- Village + P.O.- Devkali, P.S.- Guraru, District- Gaya.
 2. Sri Amrendra Kumar, S/o- Brijnandan Prasad Singh, R/o- Village- Shekhpura Nehalpur, Fatehpur, P.S.- Belaganj, Dist- Gaya.
 3. Sri Ranjit Kumar, S/o- Ram Janm Yadav, R/o- Village- Mahadev Bigha, P.O.- Chakand, P.S.- Belaganj, Dist- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Govt. of Bihar, Vishweshwaraiya Bhawan, Patna.
3. Chief Engineer, Advance Planning Wing, Road Construction Department, Govt. of Bihar, Vishweshwaraiya Bhawan, Patna.
4. Chief Engineer, South Bihar Wing, Sthaniya Kshetra Abhiyantran Sangthan, Vishweshwaraiya Bhawan, Patna.
5. Superintending Engineer, Sthaniya Kshetra Abhiyantran Sangthan, Magadh Road Circle, Gaya.
6. Executive Engineer, Road Division No. 1, Gaya, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Avanindra Kumar Jha, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha, G.A.-1
Ms. Aditi Hansaria, A.C. to G.A.-1

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-04-2017

Challenging a Memo dated 07.02.2014 (Annexure-4), whereby *Bihar Lok Nirman Sanhita* has been amended and sub-rule 'Ka' added to Rule 159, this writ petition has been filed for declaring the aforesaid Rule as *ultra vires*.

It is said that a resolution has been passed whereby upper



limit of cost of project works to be done departmentally without tendering process has been increased from Rs.7.5 lakhs to Rs.15 lakhs. It is stated that this enhancement of granting work beyond Rs.15 lakhs without tendering process and without inviting tender is an arbitrary, illegal and mala fide action which lacks transparency and therefore, for declaring the same as illegal, the writ petition has been filed.

The petitioners claim to be Class IV registered contractors carrying various works on the basis of Member of Parliament Local Area Development Scheme. The Government of Bihar passed a resolution in the year 2011 adopting a policy for implementation and execution of the work primarily under the Member of Parliament Local Area Development Scheme and initially it was indicated that for project up to Rs.7.5 lakhs, the work would be awarded by inviting of quotation and normal process of tendering shall be done away with. Now, limit of the work under this category, which was Rs.7.5 lakhs to be done departmentally, has been enhanced to Rs.15 lakhs and contending that there are no guidelines and that in an arbitrary manner, the work will be allotted which is illegal; the writ petition has been filed.

The respondents have filed a counter affidavit and they point out in the counter affidavit that the action impugned has been taken in accordance to the requirement of the P.W.D. Code/Manual as



it was found that for the work involving financial implication of less than Rs.15 lakhs, it is more expedient and in public interest so also efficiency for executing such small work to get them executed departmentally by calling for supply of material through quotation and making labour payment on the basis of Muster Roll as per PWA Form No.21. It is the case of the respondents that as calling for tender for allotting work, entering into agreement, takes a long period of time and the small development works pertaining to various schemes and the work for less than Rs.15 lakhs could be executed by departmentally through invitation of quotation and the Muster Roll, a policy decision has been taken for getting the work executed in this manner in public interest so as to avoid a delay in getting execution of the work.

Taking note of the aforesaid justification given in the counter affidavit filed by the respondents, merely on the basis of vague allegation made, we are not inclined to interfere into the matter and declare the provision as illegal or *ultra vires*. On the contrary, we find that reasonable justification has been given for doing away with the process of e-tendering for such petty work mainly related to implementation of schemes under the funds provided by the Member of the Parliament and as the system of inviting quotation for supply of materials in execution of the work departmentally is undertaken in the interest of public, we see no reason to interfere until and unless



exonerating circumstances are brought on record to show that in a particular work, the work has been executed in an illegal or arbitrary manner. Merely on the basis of general and vague allegation to say that if such works are permitted to be done departmentally by calling of quotation, there will be less transparency, we are not inclined to interfere into the matter. In a given case, where arbitrariness or illegalities are pointed out, those cases can be examined, but on the basis of the general and vague allegations made, the policy itself cannot be interfered with by this Court, particularly when the reason for implementation of such a policy is to get small development works less than Rs.15 lakhs executed in a given period of time.

Accordingly, finding no case for making indulgence into the matter for the present, we dismiss the writ petition.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	N. A. F. R.
CAV DATE	N. A.
Uploading Date	08.04.2017
Transmission Date	

