

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4661 of 2017

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Kamladityya Constructions Pvt. Ltd. registered under Companies Act 1956, having its office at Plot No. 201, Co-operative Colony, Bokaro Steel City, Bokaro (Jharkhand) through its authorized signatory, Binod Kumar Singh, S/o Late Krishna Deo Narayan Singh, resident of Rampur, Noornagar, P.O. & P.S.- Jalalpur Bajar, District- Chapra (Saran).

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Engineer in Chief, Head Quarters, Water Resources Department, Government of Bihar, Patna.
4. The Chief Engineer, Water Resources Department, Siwan.
5. The Superintending Engineer, Planning and Monitoring- II, Water Resources Department, Government of Bihar, Patna.
6. The Executive Engineer, Saran Canal Division, Bhore, Bihar.
7. The Executive Engineer, Saran Canal Division, Mairwan, Bihar.
8. The Executive Engineer, Saran Canal Division, Siwan, Bihar.
9. The Executive Engineer, Saran Canal Division, Ekma, Bihar.
10. The Executive Engineer, Saran Canal Division, Maharajganj, Bihar.
11. The Executive Engineer, Saran Canal Division, Chapra, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Ranjan Prasad, Adv. Mr. Abhimanyu Vatsa, Adv. Ms. Surbhi, Adv.
For the Respondent/s	:	Mr. Harish Kumar, GP-8 Mr. Saroj Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 02-05-2017

Heard learned counsel for the petitioner and counsel for the State.

This is the second attempt that the petitioner has approached this Court. Earlier the petitioner had approached this Court in C.W.J.C. No. 12828 of 2016 and, after considering thoroughly, this Court had refused to interfere with the wisdom of the



State authority for foreclosure of the contract. During that proceeding, the petitioner has come out with a plea that they are ready to execute the work on the new specification at the old rate and the present application has been filed by the petitioner with the following relief:-

- "1(i) To issue appropriate writ or writes, order or orders, direction or directions to the respondents to take a final decision in the matter keeping in view the twin Principles of constitution, 'the relevance and reasons';
- (ii) To issue any other prerogative writ, order or direction if necessary by moulding the relief in the facts and circumstances of this case to which the petitioner is found entitled to."

The State has filed counter affidavit wherein in paragraph nos. 13 & 14, the State has made a statement that on account of public interest and to save the public exchequer, the respondents are ready to re-consider the representation of the petitioner and to allow him to execute the work under the old existing agreements if it agrees to take up the lining of water course work first which may result in reduced scope of original work. It will be relevant to quote paragraph nos. 13 & 14 of the counter affidavit which reads as follows:-

- "13. That it is to mention here that in proposed revised work restoration and lining of water courses are to be taken up first and only thereafter other works provided in old existing agreements will be executed. To accommodate the above said lining of water course work, some of works already existing in present agreements may need to be reduced. Quantum of reduction will be decided based on actual quantity



required in the lining of water courses work which may be different in each case.

14. *That under the aforesaid facts and circumstances as well as taking into account the interest of public exchequer, the respondents are ready to consider the representation of the petitioner and to allow him to execute the work under old existing agreements if it agrees to take up the lining of water course work first which may result in reduced scope of original work. Also the agency should undertake that it will execute the said work as per above mentioned change of scope of work at the rate prescribed in the previous agreement and for no extra cost and as per above mentioned change of scope of work decided by the Department. Further, it will abide by the time line fixed by the Department as well as other terms and conditions of the agreement."*

In that view of the matter, there is no need for this Court to go into the merit of the case and to decide the matter by passing an order. This Court hopes and believes that the State will act in terms of the statement made in the counter affidavit and will take decision without any delay.

With the aforementioned observation, this writ application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2017
Transmission Date	NA

