

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11178 of 2016

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M/s Singh Construction through its proprietor Shashi Bhushan Singh, Son of Ram Kumar Singh, Resident of Village- Kamalpur, P.S.- Bidupur, District- Vaishali, Bihar.

.... Petitioner/s

Versus

1. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna through its Chairman Cum Managing Director.
2. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna Through Managing Director.
3. The General Manager (Human Resources), South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
4. The Electrical Executive Engineer, Electric Supply Division, Patna City.
5. The Special Works officer, (Head Quarter/Administration) South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
6. The Electrical Executive Engineer, Electric Supply Division, Bankipore, Patna.
7. M/s Jai Durga Construction through its Proprietor Sri Shailendra Kumar, At Sadargali, Banbari Tola, P.S. Khajekalan, Patna City- 800008.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli

For the Respondent/s : Mr. Vinay Kirti Singh

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-07-2017

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

In this case, the petitioner is challenging the action of the respondent authority vide Memo No. 587 dated 20.06.2016 by which the work order for supply of man power has been withdrawn with effect from 27.06.2016, claim has been made that action is completely unjust, arbitrary and illegal and it cannot sustain the test of Article 14 of the Constitution of India.



It is a fact that before allotment of work to the petitioner, the work was allotted to Jai Durga Construction for supply of labour but, his work order was terminated without giving any notice which compelled the Jai Durga Construction to file an application before this Court in C.W.J.C. No. 16312 of 2015 and this Court set aside the order of the Power Distribution Company held that the action against Jai Durga Construction is completely illegal on account of the fact that he was not given an opportunity of hearing and behind his back the work order has been cancelled but, during the interregnum period, a fresh tender was invited and the work was allotted to the petitioner. When the order of this Court was acted upon, the Jai Durga Construction was reinstated with the work which resulted in displacement of the present petitioner.

Learned counsel for the petitioner submits that the Power Distribution Company has acted illegally in cancelling the work order given to him, the tender which was floated was fresh tender, the petitioner had participated therein and the work order was issued in favour of the petitioner for supply of labour and when the respondent no.7 has approached this Court then it was incumbent upon the Power Distribution Company to apprise this Court about the fact that the work has already been allotted to the petitioner but, they have mischievously suppressed this fact, and had there been information to



the Court then the Court might have heard the petitioner.

Learned counsel for the respondent no.7 and Power Distribution Company has taken a plea that the petitioner was allotted the work on account of termination of the work order of the respondent no.7, the respondent no.7 approached this Court on the basis of favourable order, the position of respondent no.7 was restored, in such circumstances, there was no other alternative but, to remove the petitioner from the work of supply of labour.

Learned counsel for the Board submits that it was not necessary for the Power Distribution Company to inform this Court about the allotment of work to the petitioner as the petitioner was neither a necessary party nor a proper party but, it was the dispute between the respondent no.7 and the Power Company and, that too, the petition was allowed on the limited ground that he was not heard.

The question of hearing of the petitioner during the writ proceeding filed by the respondent no.7 does not arise and as the opportunity of hearing can be given to those persons who is either a necessary party or a proper party. In this regard, reference may be made to the case of *Poonam Vs. State of U.P. & Ors.* reported in (2016) 2 SCC 779 the Hon'ble Apex Court has held that if position of a person is restored, the person who was authorized to do work in place of earlier is not required to be heard.



In the considered opinion of this Court, the present case is squarely covered by the aforesaid case of Poonam (supra). In the present case also, the petitioner was not required to be heard as during the writ proceedings, it was basically a dispute between the respondent no.7 and the Board and he has challenged the action of the Power Distribution Company on account of the fact that before taking action, they were not heard and passed the order ex-parte. On reinstatement, the natural consequence will be replacement of the petitioner by the earlier Contractor.

In that view of the matter, this Court does not find any merit in the present writ application. However, if the petitioner feels aggrieved against the action of the Power Distribution Company or feels that they have violated the terms of contract, the petitioner is at liberty to approach the properly constituted civil court and seek relief as per law.

With the aforementioned observation, this application is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2017
Transmission Date	NA

