

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.784 of 2015

In

Civil Writ Jurisdiction Case No. 3952 of 2014

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Praveen Kumar Singh. S/o Late Bhupendra Narayan Singh. Resident of Mohalla - Karbigahiya, P.S.- Jakkanpur, District - Patna, Proprietor of M/s M.S. Indane Services.

.... Appellant

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Govt. of Bihar Vishweshwaraiya Bhawan Bailey Road, Patna - 800001.
2. Secretary, Building Construction Department, Government of Bihar, Vishweshwaraiya Bhawan Bailey Road, Patna.
3. The Engineer-in-Chief Building Construction Department, Govt. of Bihar, at Vishweshwaraiya Bhawan Bailey Road, Patna - 800001.
4. The Chief Engineer, South Bihar Upbhad, Building Construction Department, Govt. of Bihar, Vishweshwaraiya Bhawan Bailey Road, Patna - 800001.
5. The Superintending Engineer, South Bihar Bhawan Anchal Patna, Building Construction Department at Punaichak, Patna-800001.
6. The Executive Engineer, Central Building Division, Building Construction Department off Bailey Road, Patna - 800001.
7. M/s OM SAI INDANE SEVA, Bari Path Patna through its proprietor Rakesh Roshan. Son of Sri Vijayeshwar Prasad. Resident of Mohalla - Ashok Nagar, Road No.1, P.O. and P.S.- Kankarbag, District - Patna - 20.

.... Respondents

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Appearance :

For the Appellant : Mr. Ansul, Advocate
Mr. Anuj Kumar, Advocate

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

2 28-07-2017

There has to be fairness at every stage of grant of largesse by the State. A fair and open proceeding has to be adopted and if there is any element of arbitrariness or foul play emerging in the manner decision has been taken or a rightful tenderer was shut out, then the courts of law cannot be a mute



spectator.

There was reflection of the element talked about in the earlier part of the order. NIT was issued, people participated, made the deposit of earnest money and then a change was brought about without giving adequate publicity. Under the changed NIT or modified NIT, the bid of the petitioner was rejected because his earnest money fell short of Rs.500.00

When he filed the writ application, the learned single Judge was not satisfied with the explanation including the plea taken that the changes were duly put up on the website and that was taken note of by all.

We are satisfied that in the given facts and circumstances in the manner the changes were brought about to the tender notice, which prevented the petitioner from fair participation and consideration, the only option left was the order passed by the learned single Judge in following terms :

“That being so, this Court is satisfied that when the award of tender in favour of respondent no. 7 by non suiting the petitioner on the ground of deposit of earnest money was wholly arbitrary and illegal and therefore, the procedure of award of contract in favour of respondent no. 7 must be held to be bad and is hereby quashed.”



No interference, therefore, is warranted with the order of the learned single Judge in appeal.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

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