

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 618 of 2014

IN

Civil Writ Jurisdiction Case No. 16700 of 2012

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M/s Madan Prasad Sinha through its Partner Ajit Kumar, Infront of Prabhat Cinema Hall, Patna- Gaya Road, Jahanabad.

.... Appellant/s

Versus

1. The State of Bihar through Secretary, Rural Work Department, Government of Bihar, Patna.
2. The State Information Commissioner, Suchana Bhawan, 4th Floor, Bailey Road, Patna.
3. The First Appellate Officer Cum Executive Engineer, Rural Work Department, Work Division no. 1, Jahanabad.
4. The Public Information Officer cum Assistant Engineer, Rural Work Department, Work Division no. 1, Jahanabad.
5. Sunita Devi Wife of Shri Manoj Kumar resident of Village Nijamuddinpur, East Adharsh Colony, District- Jehanabad.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ratnesh Kumar Singh
For the State :		Mr. Kinkar Kumar, Advocate, SC-9
		Mr. Rakesh Kumar Sharma, Advocate
For the Respondent No. 2:		Mr. Lalit Kishore, Sr. Advocate
(State Inf. Com.)		Mrs. Binita Singh, Advocate
For the Respondent No. 5:		Mr. Amaresh Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-03-2017

Heard learned counsels for the parties.

C. W. J. C. No. 16700 of 2012 was filed by one Sunita Devi, who is the information seeker and has been arrayed as Respondent No. 5 in this Memo of Appeal. The writ application was allowed by a Learned Single Judge and a direction was issued upon the Public Information Officer of the Rural Works Department of Jehanabad to supply information,



sought under Right to Information Act. The present appellant happens to be the contractar, who had been awarded contract for construction of a rural road under what is known as Pradhan Mantri Gramin Sadak Yojana (PMGSY). He had filed the appeal, since he does not want such information sought by the private-respondent to be given, approached the Division Bench by filing L. P. A. No. 1783 of 2012. The Division Bench remanded the matter back for fresh consideration before the Learned Single Judge on the technical ground that the present appellant was a necessary party, since the information demanded may have a fall out upon his right and interest, therefore, he needs to be heard.

That is how the second round of adjudication has come to be made by the Learned Single Judge in his order, dated 09.12.2013, who seems to have reached the same conclusion as the previous Learned Single Judge. He has opined that the information, which was sought for by the private-respondent or the petitioner of the writ application was information, which was in the public domain and the same does not come under the category of exemption, contemplated under Section 8 of the Right to Information Act, 2005.

Learned counsel for the appellant submits that keeping in view the expanded interpretation, which has been given to Section 8 by the Hon'ble Supreme Court in the case of



Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizwi, reported in 2013 (1) PLJR 145 SC, a vital consideration, whether the information sought also satisfies the requirement on the touchstone of Article 21 of the Constitution of India or not was not taken into consideration. The counsel for the appellant submits that he has reasonable apprehension that the information, which is being sought, will affect his life and liberty, because it is liable to be misused. It may fall in the hands of the anti-social elements or naxalites, who may threaten or even make attempts on life of the appellant. No public purpose is being served by providing the information. The information being of highly technical nature, it serves nobody's purpose by providing such inputs etc. etc.

Some of these submissions have been made even before the Learned Single Judge. The Learned Single Judge has gone by the basic principle that providing information under Right to Information Act is a norm and refusal is exception. Even in the judgment of Bihar Public Service Commission (supra) in paragraph 24, the Hon'ble Supreme Court does talk in terms of certain discretion being exercised by the authorities, but then it also talks of objectivity in the decision making process and the satisfaction of the authorities have to be weighed objectively and not encourage rejection in providing information, which is in the public domain.



In the present case, the information which had been sought by the private-respondent was in respect of the road, what is known as Sahbazpur to Kharoj via Guhapakar in the district of Jehanabad. The estimation, the agreement and the measurement of the work done was demanded. None of these inputs, which was sought by the private-respondent have elements of privacy involved, because all the inputs are in the public domain. Since award of contract for construction of public road under PMGSY is after inviting public response by way of tender and due advertisement, the estimation, the cost, the actual work performed etc. are all issues, which fall within the public domain and, therefore, the resistance being put up by the contractor, that is the appellant, is, obviously, for his own personal reasons and the law as interpreted by the Hon'ble Supreme Court or the law as laid down by the Legislature by providing exemptions under section 8 of the Right to Information Act do not support the appellant.

In view of the above, the Learned Single Judge rightly set aside the order of the Public Information Officer, refusing to supply the information as well as the order of the State Information Commission, holding such facts to be vague, and has given a direction for providing the inputs sought for by the private-respondent.

There is no infirmity in the decision of the Learned



Single Judge, which requires rectification.

The decision does not warrant any interference in appeal.

The appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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