

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6585 of 2016

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1. M/s Tirupati Balaji Enterprises, through its Proprietor Yogendra Sharma, R/o Vill. + P.O.- Newari, P.S.- Makhdumpur, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Bihar, Patna
3. The Engineer-in-Chief, Rural Works Department, Bihar, Patna
4. The Chief Engineer, South Bihar, Rural Works Department, Patna
5. The Superintending Engineer, Rural Works Department, Works Division, Gaya
6. The Executive Engineer, Rural Works Department, Works Division, Sherghati

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate.
Mr. Sanjay Kumar, Advocate.

For the State : Mr. Anil Kumar Singh GP-18

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-02-2017

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

In the present writ petition, petitioner is challenging the order dated 30.11.2016 issued by the Executive Engineer, Rural Works Department, Works Division, Sherghati by which he vide letter no.807 dated 30.11.2016 has cancelled the agreement, blacklisted the petitioner Company for a period of 10 years and security amount of Rs. 33,61,000/- has been forfeited. All actions have been taken without giving notice to the petitioner.

Brief fact of the case is that petitioner is claiming to be



Class I contractor registered with the Bihar State Bridge Construction Corporation (hereinafter referred to as the Corporation), Rural Work Department notified tender for construction of bridge in pursuance of the tender notice for construction the petitioner Company also purchased NIT and participated in the tender, was selected as he was lowest tenderer, but later on respondents have taken actions on the ground that petitioner is not a registered contractor in the Rural Works Department, may he be a registered contractor in the Corporation, in such view of the matter all the three actions have been taken against the petitioner.

When this Court has put a question to the learned counsel for the State as to whether before taking any action petitioner Company, was given prior notice or show cause whereupon he has fairly accepted neither notice nor show cause notice was given to the petitioner Company as agreement itself provides that any action could be taken even without giving notice.

The aforesaid submission of the learned counsel for the State is not acceptable in law, in view of fact if the petitioner Company is visited with any action which has the civil consequences of such highest magnitude or small magnitude, in all circumstances service of notice or show cause notice is must.



In such view of the matter, the impugned order vide letter no.807 dated 30.11.2016 is hereby set aside, However, the respondent authority, if so advised, is free to take action in accordance with law.

Accordingly this writ petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.3.2017
Transmission Date	

