

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1419 of 2017

In

Civil Writ Jurisdiction Case No.4486 of 2017

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M/s Laxman Kumar through its Proprietor Laxman Kumar Prasad, S/o- Sri Harihar Sah, R/o- Mohalla- Ashiana Nagar, Sector- 4, Ramnagri, P.S.- Rajiv Nagar, P.O.- Ashiyana Nagar, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Patna.
2. The Secretary, Rural Works Department, Govt. of Bihar at Patna.
3. The Engineer-in- Chief, Rural Works Department, Govt. of Bihar, Patna.
4. The Chief Engineer- 3, Rural Works Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Works Circle, Motihari.
6. The Tender Committee through its member and Nodal Officer Rural Works Department, Govt. of Bihar, Patna.
7. The Engineer-in- Chief -Cum Chairman, the Tender Committee, Govt. of Bihar, Patna.

... Respondents... Respondent 1st Set.

8. Kamakshi Minakshi Construction Pvt. Ltd, having its registered Office at Flat No. 3, Pocket B-3, Sector- 11, Police Station- Rohani, District- Rohini, New Delhi through its Director namely Sri Rishikesh Bharti, S/o Sri R.B. Bharti, Resident of C- 68, Section- 49, Police Station- 49, Sector District- Noida (Uttar Pradesh) and presently residing at Flat No. 401, Hari Goving Apartment, Exhibition Road, P.S.- Gandhi Maidan, District- Patna, Bihar.

... .. Petitioner- Respondent 2nd Set.

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Appearance :

For the Appellant/s	:	Dr. Anshuman, Advocate Mr. Prashant Prakash, Advocate
For the State	:	Mr. P.N.Shahi -AAG 6
For respondent No.8	:	Mr Rajeev Shekhar, Advocate Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-11-2017

Having heard learned counsel for the parties, we find that when the technical bid of the writ petitioner-respondent No.8 herein was rejected on 10.03.2017 and when the writ petitioner



challenged the same in the writ petition being CWJC No.4486 of 2017, the Writ Court on 12.04.2017 by the interim order was apprised of the fact that a fresh tender has been called for after the writ petitioner-respondent No.8 herein was declared ineligible. The writ petitioner-respondent No.8 herein was granted opportunity if advised to participate in the fresh bid and it was further observed that any action in the fresh bid would be subject to the result of this case. However, when the writ petition was heard and disposed of by the impugned order on 10.08.2017, the second process of tender had already been finalized and the contract was awarded to the present appellant herein.

Be that as it may be, the State Government did not apprise the learned Writ Court about an interest being created after finalization of the second tender in favour of the present appellant and their right being adversely affected in case, the order is passed.

That being so, in our considered view, the matter should be remanded back to the learned Writ Court for reconsideration so that the issue with regard to finalization of the second tender which was going on and the right created in favour of the appellant herein are also taken note of along with the objection of the original petitioner in the writ petition, namely Kamakshi Minakshi



Construction Pvt. Ltd.- respondent No.8 herein, and final decision taken by the learned Writ Court after hearing all concerned.

In the present scenario, where the appellant has not been heard and the right which accrued to him because of the acceptance of a second tender having been adversely affected, we find that he has a right to be heard and, therefore, we have no option but to quash the order passed by the learned Writ Court on 10.08.2017 and remand the matter back for reconsideration. The present appellant be impleaded as respondent.

Accordingly, the appeal is allowed, order passed by the learned Writ Court on 10.08.2017 is quashed and the matter is remanded back to the learned Writ Court for reconsideration with a request to proceed with the matter and decide it within a period of two months after hearing all concerned.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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