

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8710 of 2017

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1. Arun Kumar, Son of Late Yogendra Thakur, resident of Vill. - Raipura, P.O. + P.S. - Fatuha, Distt. - Patna.
 2. Rohit Kumar, son of Shri Rajkishore Paswan, resident of Vill. - Maksudpur, P.O. + P.S. - Fatuha, Distt. - Patna.
 3. Md. Mahmood Alam, son of Late Ali Hassan Miyan, resident of vill. Sammaspur, P.O. - Gadho, District - Patna.
 4. Ashok Kumar Sundaram, son of Late Kamla Prasad, resident of vill. - Govindpur, P.O. + P.S. - Fatuha, Distt.- Patna.
 5. Baliram Kumar, son of Shri Kapileshwar Rai resident of Vill. - Kripal Tola, P.O. + P.S. - Fatuha, Distt. - Patna.
 6. Simmi Singh, wife of Shri Vishal Gaura, Resident of S.K. M.V. College, P.O. + P.S. - Fatuha, Distt. - Patna.
 7. Raj Kishore, son of Late Ramdev Singh, resident of South of S.K.M.V. College, P.O. + P.S. - Fatuha, Distt. - Patna.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Special Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Executive Engineer, District Urban Development Authority - II, Patna.
4. The Assistant Engineer, District Urban Development Authority - II, Patna.
5. The District Magistrate, Distt. - Patna.
6. The Block Development Officer, Block - Fatuha, Distt - Patna.
7. Nagar Panchayat, Fatuha through its Executive Officer, Fatuha, Distt. - Patna.

.... Respondents

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Appearance :

- For the Petitioners : Mr. Ashok Kumar Choudhary,
Mr. Akshansh Ankit, Advocate
- For the Respondents : Mr. Yogendra Prasad Sinha, AAG7
Mr. Rakesh Ambastha, AC to AAG 7
- For Respondent No. 7 : Mr. Anil Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-04-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. The present writ petition has been filed for the following
reliefs –



“(a) To quash Letter no. 749 dated 06.06.2017 issued by Respondent No. 2 whereby and whereunder work-contract related to 12 schemes advertised vide Notice Inviting Tender 03/2016-17 awarded to the Petitioners were cancelled without following the principles of natural justice and in utter violation of the settled position of law in this regard.

(b) For a direction upon the Respondents to allow the Petitioners to continue with the execution of work pursuant to the work allotted to them pursuant to the Notice Inviting Tender 03/2016-17.

(c) For a further direction upon the Respondents to prepare bills and release payment of bill amount and advances strictly in accordance with the terms and conditions stipulated in the agreements entered into with the Petitioners.

(d) For a further direction upon the Respondents to abstain from initiating any fresh tender process in relation to the 12 schemes advertised vide Notice Inviting Tender 03/2016-17 during the pendency of the instant writ application.

(e) To pass any other order/orders in shape of a consequential relief to which the Petitioners may be found to be legally entitled to in the facts and circumstances of the instant case at hand.”

3. Learned counsel for the petitioners makes a short submission to assail the impugned order, to the effect that no show cause notice was issued to the petitioners prior to cancellation of the



tender itself even though work orders had been issued pursuant to the entering into an agreement with the petitioners.

4. Learned counsel for the respondents appears and has been heard.

5. It is pointed out from the counter affidavit that pursuant to the letter no. 749 dated 06.06.2017 issued by the Special Secretary, Urban Development and Housing Department, Patna, the agreements of the petitioners have been cancelled and the formal order dated 07.06.2017 has been passed thereafter (Annexure-B to the counter affidavit).

6. Having heard learned counsel for the parties and on consideration of the materials available on record, this Court finds merit in the writ petition. It is not in dispute that the petitioners had been working by virtue of the work orders and agreements entered into between the parties. The petitioners have specifically stated in paragraphs 18 and 19 of the writ petition that no show cause notice whatsoever was given to the petitioners before cancellation of their agreements, and this aspect of the matter has not been controverted in the counter affidavit. This Court therefore is of the view that the impugned order dated 06.06.2017 (Annexure-P/5) has been passed in violation of the natural justice. The same cannot be sustained and is accordingly quashed. The formal order dated 07.06.2017 has been passed at the behest of the superior officer and has thus no force,



which, according to the petitioners, has not been served upon them.

7. The writ petition stands allowed.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.04.2018
Transmission Date	N.A.

