

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10846 of 2017

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M/s. IVRCL Ltd., having its Bihar Regional Office at H.No. 14, Flat No.A1, Kamta Sadan Apartments, Kamta Singh Kam Lane, Near Oro Dental Clinic, East Boring Canal Road, Patna, Bihar- 800001, through the Regional Head, Shri Pammi Edward Silvistor, S/o Shri Ratna Raju,

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Engineer-In-Chief-cum-Spl. Secretary, Govt. of Bihar, Public Health Engineering Department, Patna.
3. The Regional Chief Engineer, Public Health Engineering Department, Govt. of Bihar, Patna.
4. The Superintending Engineer, Public Health Engineering Department, PH Circle, Patna West, Patna.
5. The Executive Engineer, Public Health Engineering Department, PH Division, Maner, Patna West, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Namrata Mishra, Adv

For the Respondent/s : Mr. S. RAZA AHMAD- AAG5

Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

The present writ petition has been filed for the following reliefs—

- (i) *For quashing of order no. 72 dated 18.07.2017 passed by the Respondent no. 5, the Executive Engineer, PHED, PH Division, Manger rescinding the Agreement No. 05/2009-10 dated 10.06.2009 and the Supplementary Agreement dated 05.12.2016 and consequently for encashing the Bank Guarantee No. 1303909BG000461*



dated 12.12.2009 for Rs. 4,96,00,000/- and Bank Guarantee No. 0910309BG0000824 dated 02.06.2009 for Rs. 1,24,00,000/- (extended till 30.11.2017), Bank Gurantee No. 1303912BG0001299 dated 13.09.2012 for Rs. 63,06,906/- extended till 30.06.2018 (submitted towards Mobilization Advance and for recovery of mobilization advance of Rs. 56,04,262.00 and unadjusted interest of Rs. 30,31,881.00 on mobilization advance and also recommending to the higher authorities for blacklisting the company for 5 years.

- (ii) *For directing the respondents to grant six months time to complete the work.*

2. At the very outset, learned counsel for the petitioner fairly accepts that the present dispute is amenable to the forum of arbitration under the Bihar Public Works Contracts Disputes Appellate Tribunal (for short 'the Tribunal'). It has been stated that such remedy has not been availed of as the said Tribunal was not functional at that time, but has since started functioning.

3. In the above view of the matter, this Court is not inclined to enter into the merits of the claim of the petitioner. The writ petition is disposed of granting liberty to the petitioner to approach the Tribunal within a period of four weeks from today. In such event, it is made clear that any further action taken by the respondents pursuant to the Tender Notice



dated 07.04.2018 issued for the remaining works (Annexure-17) shall abide by the decision of the Tribunal.

4. The parties shall maintain *status quo* for a period of four weeks from today.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2018
Transmission Date	NA

