

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14113 of 2015

Shankar Prasad, Son of Sri Ganga Ram Raut, Resident of Village and P.O. -
Fatki, P.S. - Madhepura, District - Madhubani.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Planning and Development Department of Bihar, Patna.
2. District Magistrate, Madhubani
3. Joint Director, Planning and Development Department, Bihar, Patna.
4. Regional Planning Officer, Darbhanga Pramandal, Darbhanga.
5. District Planning Officer, Madhubani.
6. Superintending Engineer, Regional Engineering Organization (R.E.O.), Works Circle, Darbhanga.
7. Executive Engineer, Regional Engineering Organization, Works Division - 2, Jhanjharpur, Madhubani.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Ajay Kumar Thakur, Mr. Imteyaz Ahmad, Mr. Malay Kumar Choudhary Ms. Swati Sinha, Advocates
For the Respondents	:	Mr. Sunil Kumar, AC to GA 12

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 21-12-2018

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

“(i) Quashing the letter no. 1392 dated 17.8.2015 issued under the signature of executive Engineer, Regional Engineering Organisation, Works Division-2, Jhanjharpur, Madhubani by which a direction has been issued to Assistant Engineer for implementation and carrying out the work from the departmental agency/employees itself on the ground that the same has been issued contrary to various resolution of the government as well as the decision of the government to grant 50% reservation in all works below the estimated cost of Rs. 15 lacs.

(ii) For further issuance of writ/writs, order/orders in form of mandamus directing the respondent authorities to adhere



strictly with the resolution and circulars issued by the different department of the Government of Bihar by which the government has decided to grant 50% reservation to the contractors in all the works having estimated cost below 15 lacs by inviting tender.

(iii) For any other relief/reliefs to which the petitioner found entitled to.”

2. Learned counsel for the petitioner invites reference to the Resolution of the State Government vide Memo No. 5931(S) dated 01.07.2015, *inter alia*, which provides for reservation in various categories upto 50% with respect to the work for an estimated cost of Rs. 15 lacs or below. In keeping with the said Resolution, the Executive Engineer by his letter no. 1255 dated 10.08.2015 directed the reservation policy to be implemented. It is submitted that the said letter was inexplicably withdrawn merely a week later vide letter no. 1392 dated 17.08.2015 (Annexure-9) which is wholly arbitrary on the part of the respondents.

3. Learned counsel for the respondents resists the writ petition with reference to the counter affidavit. However, he is unable to answer the contention of the petitioner that no reasons have been assigned for the change of stance by the respondent no. 7 by cancelling his earlier letter no. 1255 dated 10.08.2015.

4. Having heard learned counsel for the parties and on consideration of the materials available on record, this Court finds merit in the submission of learned counsel for the petitioner. The Government



decision vide Memo No. 5931 dated 01.07.2015 for granting 50% reservation to the reserved categories for all works within the estimated cost of upto Rs. 15 lacs is not in dispute. So also, the letter of the respondent-Executive Engineer (respondent no. 7) dated 10.08.2015 issued in the light of the said letter dated 01.07.2015 for grant of 50% reservation according to the roster is not denied. However, the said letter dated 10.08.2015 has been cancelled by the impugned letter dated 17.08.2015 (Annexure-9) without assigning any reason whatsoever, which ex facie appears contrary to the Government decision referred to above. In such circumstances, the impugned letter dated 17.08.2017 cancelling the earlier order dated 10.08.2015 appears manifestly arbitrary and without basis inasmuch as the same runs contrary to the Government decision. The respondents have not shown that the Government decision has been withdrawn, altered or modified subsequently.

5. In the above circumstances, the impugned letter dated 17.08.2015 (Annexure-9) is hereby quashed and the writ petition stands allowed.

BT/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.12.2018
Transmission Date	N.A

