

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9127 of 2018

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M/s Topline Infra Projects Pvt. Ltd. having it's place of business at Ambedkar Chowk, Mirchai Bari, Katihar through it's authorized signatory namely Rakesh Kumar, son of Sri Nand Lal Khudania, resident of Deharai Bara Bazar, P.S. and District- Katihar.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Building Construction, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Building Construction, Govt. of Bihar, Patna.
3. The Engineer in Chief cum Additional Commissioner cum Special Secretary Department of Building Construction, Govt. of Bihar, Patna.
4. The Additional Secretary cum Commissioner Financial Advisor, Department of Building Construction, Govt. of Bihar, Patna.
5. The Chief Engineer (North) Department of Building Construction, Vishveshwariya Bhawan, Bailey Road, Patna.
6. The Executive Engineer, Department of Building Construction, Katihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gautam Kumar Kejriwal, Advocate.
For the Respondents : Mr. Sushil Kumar, GP-22

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-05-2018

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

2. The present writ petition has been filed for quashing of the office order communicated vide letter bearing memo no. 4172(bha) dated 27.04.2018 issued by the respondent- Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Building Construction Department, Government of Bihar, Patna; for restraining the respondents from executing the aforesaid impugned order as



contained in the impugned letter bearing Memo No. 4172(bha) dated 27.04.2018 with respect to other ongoing contracts of the petitioner; and for connected reliefs.

3. Learned counsel for the petitioner submits that the impugned order dated 27.04.2018 (Annexure-10) is wholly arbitrary and unsustainable in law, having been passed in violation of the principles of natural justice. This is the second round of litigation after the petitioner succeeded in C.W.J.C. No. 598 of 2018 whereby the order dated 29.12.2017 was quashed for want of a proper show cause notice. This time, pursuant to the show cause notice dated 27.03.2018, the petitioner filed a detailed reply dated 03.04.2018 (Annexure-9) enumerating reasons why the proposed action for blacklisting/ suspending the petitioner's registration could not be resorted to. The terms of the Standard Bidding Document and the provisions of the Bihar Public Works Department Code 2005 were referred to and relied upon to make out a case that there was no conspiracy with co-bidders and it was merely a matter of rare chance that the price bids of two applicants had matched each other. The petitioner's reply has however been rejected without due application of mind.

4. Learned counsel for the respondents supports the impugned order, submitting that reasons for rejecting the petitioner's reply have duly been assigned therein and hence no interference is called for.



5. Upon hearing the parties, this Court finds that pursuant to the show cause notice, a detailed reply was furnished by the petitioner with arguments and contentions against the proposed action of blacklisting/suspension of its registration. The petitioner has referred to the Standard Bidding Document and has relied on Rule 163 of the Bihar Public Works Department Code 2005 which perceives a situation of matching bids between bidders and provides for a procedure/mechanism for dealing with such a situation. A perusal of the impugned order discloses that the same has been passed without adverting to the reasons and contentions raised in the petitioner's reply, rather the petitioner's stand that it was a mere rare chance that matching bids were submitted, has been disbelieved merely on the subjective satisfaction of the respondents. Neither any reasons have been assigned nor objective material has been referred to in the order for not accepting the submissions of the petitioner and hence the impugned order must be held to be a non-speaking one. Absence of reasons for arriving at a conclusion vitiates an order as being violative of natural justice and has civil consequences.

6. In this view of the matter, the impugned order dated 27.04.2018 is hereby quashed and the matter once again remanded to the Engineer-in- Chief cum Additional Commissioner cum Special Secretary, Department of Building Construction, (Respondent No. 3) for passing orders afresh after due consideration of the reply of



the petitioner in accordance with law.

7. The writ petition accordingly stands allowed with the aforesaid observations and directions.

Md. Ibrarul/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.05.2018
Transmission Date	N.A.

