IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15747 of 2017

==

1. Shiv Narayan Gorhan, Son of Late Sangam Lal Gorhan, Resident of Village- Hirdyanagar, P.S.- Birpur, District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
3. The Executive Officer, Birpur Nagar Panchayat, Supaul.
4. The District Magistrate, Supaul.
5. The Sub Divisional Officer, Supaul.

.... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the Respondent/s : Mr. Abbas Haider-SC6

==

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 26-03-2018 On behalf of respondent No.3, counter-affidavit has been filed. Let the same be kept on record.

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Birpur Nagar Panchayat, Birpur, Supaul.

The petitioner has filed this writ petition for a direction to the respondents to allow him to collect tax from Birpur Bus Stop and Bypass Road in pursuance of the agreement dated 03.07.2017 or return the amount with interest as petitioner has stopped the work of collecting toll tax from 11.10.2017.

The learned counsel for the petitioner submits that in pursuance of Advertisement No.4 of 2017-18, Bus Stop Bypass and the roads situated in Nagar Panchayat, Birpur was settled with the petitioner on 22,11,000/-. The petitioner deposited half of the bid amount. 1/4th of the bid amount was to be deposited by 30th of June, 2017 and the remaining 1/4th was to be deposited by 30th of September, 2017 but on 29.08.2017, a notice was given to the petitioner by the Chief Executive Officer, Nagar Panchayat Birpur, Supaul that the petitioner was collecting illegal tax from the vehicles passing through bypass. The petitioner sought information about the Bhimnagar-Farbesganj road and it was reported that the same road falls within Birpur Nagar Panchayat Ward No.9-12 and 13. It is further submitted that the petitioner again received notice on 20.09.2017(Annexure-6) by which the petitioner was directed to stop collection of tax from Birpur-Bathnaha road. The petitioner gave his show cause that he is collecting tax on the bus stop as well as the roads falling within the jurisdiction of Birpur Nagar Panchayat according to the prescribed rate and he did not collect any illegal tax from any vehicle but petitioner was asked not to collect any tax from 18.10.2017(Annexure 10) and the Department started collecting tax. It is further submitted that now the financial year 2017-2018 is nearing to end by 31st of March, 2018. The petitioner has already stopped collecting tax in compliance of order of executive office, therefore, the respondent be directed to return the bid amount deposited by the petitioner for the whole year deducting proportionate amount fro the months the petitioner collected taxes. It is submitted that the petitioner deposited Rs.19,12,970/- out of total bid amount Rs.22,11,000/-. Petitioner collected tax till 18.10.2017 and he was restrained from collecting tax for more than five months.

The learned counsel for the respondents submitted that the Sub Divisional Officer during the course of enquiry and inspection found that the petitioner was collecting Rs.150 from the vehicle instead of Rs.60, Rs.50 and Rs.40. The receipts issued by the petitioner are annexed with the counter-affidavit as Annexure J series. The petitioner did not deposit the entire bid amount till 30th of September, 2017 and since 18.10.2017, the Department took the work of collection of tax as the petitioner refused to collect tax.

Having considered the submissions of both sides, it is admitted that the petitioner was settlee for collecting tax from vehicle passing through Birpur Bypass bus Stop and the roads falling within the Birpur Nagar Panchayat, but the petitioner was stopped by the authority from collecting tax from 18.10.2017 on allegation that the petitioner collected excess tax at higher rate than the fixed by the authority. The petitioner although filed show cause but he also wrote showing his unwillingness to collect in view of allegation.

Therefore, I find that the petitioner is entitled for refund of proportionate amount of bid money deposited by the petitioner for whole of the year. The authorities are directed to ascertain monthly bid amount after dividing yearly bid amount by twelve. The petitioner is entitled to get refund of five and half months. The authority shall pass order within three months from the date of receipt of this order.

This writ petition is disposed of accordingly.

(Prabhat Kumar Jha, J)

Saurabh/-

U			