

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14066 of 2017

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Aditya Kumar Singh, S/o Udeswar Prasad Singh, aged about 37 Years, R/o At
+ Post- Dumra, P.S. Bhawanipur, District- Purnea.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna.
2. The Secretary, Rural Works Deptt. Govt. of Bihar, Vishweshriya Bhawan,
Bailey Road, Patna.
3. The Engineer-in-Chief cum Additional Commissioner-cum-Special Secretary,
Rural Works Deptt. Govt. of Bihar.
4. The Chief Engineer, Rural Works Deptt. Govt. of Bihar, Patna.
5. The Superintending Engineer, Rural Works Deptt. Works Circle, Purnea.
6. The Executive Engineer, Rural Works Deptt. Work Division, Katihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gautam Kumar Yadav, Advocate

For the Respondents : Mr. Ajay - GA5

Mr. Ashish Kr. Lal, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 21-03-2018

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—

*“(i) For quashing of the order dated 29.6.17 contained in
memo no. 7725 passed by the respondent Engineer in
Chief whereby the petitioner has been debarred from
participating in future tender.*

*(ii) For direction to the respondents not to act upon the
order dt. 29.6.2017 contained in memo no. 7725 as if
order dated 29.6.2017 never existed.*



(iii) To quash the decision of the tender committee 4.9.2017 by which technical bid of the petitioner has been rejected though the copy of same has not been supplied to the petitioner rather, it has been communicated through mail on the petitioner mentioning interalia for reason as per S.B.D. e.i Debar dt. 29.6.17.

(iv) To direct the respondent not to proceed with the NIT till final disposal of the writ petition with regard to work tender reference no. MMGSY-17, Katihar 01, Tender ID 2017ECBIH 51716-2 Rizwan House to Mohammad Nagar Mushahari, Tender Reference No. MMGSY-17, Katihar 02, Tender ID-2017 ECBIH 51717-1, Mahanaur School To Shershahbadi Tola, Tender Reference No. MMGSY-17, Katihar 03, Tender ID 2017 ECBIH 51718-1 Futani Hatiay Bharshiya to Munda Tola and Tender Ref. No. MMGSY-17, Katihar 04, Tender ID-2017, ECBIH 51719-1 Kushwaha Tola to Aadiwasi Tola in which technical bid of the petitioner has been rejected under clause of SBD on account of pending work in the name of the petitioner”.

3. Learned counsel for the petitioner makes a short submission to the effect that even though the work was completed in the first week of June, 2017 and the final bill submitted on 28.06.2017, the impugned order of debarment continues to obstruct his participation in other tenders even subsequently and thus, the same has the effect of debarment for an indefinite period. A supplementary



affidavit has been filed enclosing the details of some of the tenders in which his bid has been rejected on the ground of the subject debarment order even after completion of the work in June, 2017.

4. A counter affidavit has been filed on behalf of the respondents in which however the aforesaid stand of the petitioner has not been controverted.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. It would appear that the debarment order has been passed on 29.06.2017 which appears to have been done on the basis of the report of the Executive Engineer, Rural Works Department, Katihar dated 26.05.2017 (Annexure-B to the counter affidavit), according to which the petitioner had completed only 80% of the work. It would however appear that the petitioner's stand that the work was completed in June, 2017 and for which a final bill has been submitted on 28.06.2017, a day prior to passing of the debarment order, has not been taken note of, muchless controverted by the respondents. If the work has already been completed by the petitioner as claimed, there can be no reason for keeping the debarment order in effect indefinitely.

6. Accordingly, the impugned order contained in memo no. 7725 dated 29.06.2017 (Annexure-8) is hereby quashed. The writ petition stands allowed.



B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.03.2018
Transmission Date	N.A.

