

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.731 of 2019

=====

Avexa Corporation Private Limited (formerly known as M/S Sivaswathi Constructions Private Limited) having its registered office at Plot No.17, Aurora Colony, Road No.03, Banjara Hills, Police Station-Banjara Hills, Hyderabad-500034 through its authorized signatory namely M.V. Suresh, Gender-Male, aged about 47 years, son of M. Ramakrishna, resident of V9/33, Obul Dev Nagar, near Panchmukha Hanuman Temple, Anantpur, Police Station-Anantpur, District-Anantpur, Andhra Pradesh.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department Government of Bihar, Patna.
4. The Chief Engineer, Rural Works Department, Government of Bihar, Patna.
5. The Superintendent Engineer, Rural Works Department, Work Division, Madhubani, Bihar.
6. The Executive Engineer, Rural Works Department, Work Division, Madhubani, Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
For the Respondent/s : Mr. Prabhat Ranjan, AC to GP-6

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 22-01-2019 Heard learned counsel for the parties.

Petitioner has moved this Court for the following
reliefs:-

“i) To issue a Writ in the nature of mandamus commanding the respondents to refer the disputes raised by the petitioner to the Empowered Standing Committee in terms of clause-24 of SBD.

ii) To any other relief or reliefs to



which the petitioner is entitled in the facts and circumstances of the case.”

Learned counsel for the petitioner has made a limited prayer whereunder he wants that the dispute whatever is arising out of the order of termination, as contained in letter vide memo no.1667 dated 21.12.2018, be referred to the Empowered Standing Committee in terms of Clause 24 of the Standard Bidding Document (SBD). Even though in the order dated 18.01.2019 this Court while directing the respondent-State to come out with certain answers on the issues indicated thereunder has referred the letter dated 24.12.2018 (Annexure-9) as impugned order, it is now noticed that neither Annexure-8 nor Annexure-9 are impugned in the present writ application. In other words, the office order vide memo no.1667 dated 21.12.2018 and letter no.1685 dated 24.12.2018 (Annexure-8 and 9 respectively) are not under challenge. This Court would, thus, not go into the legality and validity of the office order as contained in Annexure-8 and 9.

From the counter affidavit filed on behalf of the respondents today it appears that the respondents have alleged breach of terms and conditions of the agreement by the petitioner. In paragraph 22 of the counter affidavit, it is stated that the matter was twice placed before the Empowered



Standing Committee earlier and the Empowered Committee had restored the cancellation of agreement on earlier two occasions. It is alleged by the respondents that the petitioner has failed to start works as per the direction of the Empowered Committee.

As Stated above, since the petitioner has not challenged Annexures-8 and 9 to the writ application and the respondents have come out with a reply that the dispute was earlier referred to the Empowered Committee at least on two occasions, still the petitioner failed to start work, this Court is not inclined to entertain the present writ application as it would not be a fit case to exercise jurisdiction of this Court under Article 226 of the Constitution of India.

The writ application has, thus, no merit. It is dismissed accordingly.

The petitioner may pursue whatever remedy he may have in accordance with law.

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

