

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.206 of 2019

In

Civil Writ Jurisdiction Case No.16903 of 2017

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D. B. S. Constructions Pvt. Ltd. through its Director, Sunil Kumar Singh, son of Sri Daroga Singh, resident of Mohalla- Samdika Nagar, P.S.- Dehri, District- Rohtas, Bihar

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna
2. The Engineer in Chief cum Additional Secretary, cum Special Secretary, Road Construction Department, Government of Bihar, Patna
3. The Chief Engineer, South Bihar Sub Division, Road Construction Department, Government of Bihar, Patna
4. The Executive Engineer, Road Construction Department, Road Division, Dehri-on-Sone, Rohtas, District- Rohtas, Bihar
5. M/s Surendra Prasad and Company through its Partner Anup Kumar Son of Surendra Prasad, Resident of Anandpura, P.S.- Kadirganj, District- Nawada

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Prabhat Ranjan
For the Respondent/s : Mr.Chitrnanjan Sinha

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 15-05-2019 Heard learned counsel for the appellant.

This appeal assails the judgement of the learned Single Judge dated 22nd of January, 2019 wherein a challenge had been raised to the decision of the respondent Road Construction Department to re-tender a particular project and then proceed accordingly. This was challenged by the appellant on several grounds, but the learned Single Judge, after having



traversed the facts, found that the respondent Department was justified in proceeding to get the work re-tendered as the previous bill of quantity that had been raised was far in excess of the work to be done at the site.

The said findings have been recorded by the learned Single Judge after having assessed the entire material on record and it was finally held that there was no illegality in going in for re-tender.

However, while dismissing the writ petition, the learned Single Judge also examined the fact of grant of an interim order by the Court about which the opinion of the learned Single Judge was that the appellant had indulged in presenting facts that ultimately misled the Court pass an interim order. It is on this that a cost of Rs.50,000/- was imposed on the appellant. Learned counsel submits that there was no intention on the part of the appellant to have misled the Court to pass an interim order and, as a matter of fact, the entire documents that were relied on were in no way presented so as to construe an act of misleading on the part of the appellant.

We have heard learned counsel for the State as well and after having examined the records as also the findings recorded by the learned Single Judge, we find that the



conclusion drawn by the learned Single Judge in relation to re-tendering does not suffer from any infirmity, much less a legal infirmity so as to warrant any interference.

So far as the issue of imposition of cost is concerned, the finding of the learned Single Judge is that the appellant had indulged in obtaining a two-page xerox paper from the records of the Department which formed part of the note-sheet of the file of the tender process. It was for the respondent State, in our opinion, to explain as to how such note-sheet found placed in the hands of the appellant and, therefore, the question of misleading the Court on such document, which was the note-sheet of the respondent Department, in our opinion, does not arise.

We, therefore, set aside the impugned judgement, insofar as it imposes a cost of Rs.50,000/- on the appellant. The rest of the judgement of the learned Single Judge is upheld.

The appeal is disposed off accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

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