

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.304 of 2019

In
Civil Writ Jurisdiction Case No.18219 of 2018

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Mukesh Bhushan son of Ram Nandan Prasad Singh Mid day meal project at
Suryagarha Block, Resident of Village- Hathidah, P.S. and P.O. Hathidah,
District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary Education Department,
Bihar, Patna.
2. The Director, Midday Meal Project Bihar, Patna.
3. District Magistrate, Lakhisarai District- Lakhisaraia.
4. The District Programme Officer Midday Meal Project, Jay Nagar, Lal
Pahari, Lakhisarai, District- Lakhisarai.
5. The District Education Officer, Lakhisarai District- Lakhisarai.
6. Arbind Kumar son of Late Brahmdeo Singh, resident of Village- Rahatpur,
P.S.- Piparia, District- Lakhisarai, newly appointed contractor of midday
meal, Suryagarha Block, Lakhisarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sandeep Kumar, Advocate Mr. Madan Kumar, Advocate Mr. Rohit Raj, Adv.
For the Respondent/s	:	Mr. Girijish Kumar, Advocate
For the Private Respondent :		Mr. Arun Kumar, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-07-2019

Heard learned counsel for the appellant.

2. The appeal arises out of the impugned



judgment dated 25th January, 2019 in C.W.J.C. No. 18219 of 2018 whereby the learned Single Judge has dismissed the writ petition and has allowed the authorities to proceed in terms of the decision taken on 26th July, 2018.

3. The dispute in short is in relation to a contract for running the Mid Day Meal Project at Suryagarha Block, Village- Hathidah, District- Patna.

4. Admittedly, the appellant earlier was a successful applicant for two places, namely Block Halsi, and Block Suryagarha. His performance at Block Halsi was such that he had to depart by tendering his resignation. Learned counsel contends that it was on account of non-payment by the respondents that he had to do so. On the other hand, the respondents have taken it to be an incapacity on the part of the appellant to perform his duties on the basis of the contract awarded to him and have therefore also made it a reason for rejecting his representation in relation to the claim for continuance as the contractor for the Mid Day Meal Project at Suryagarha.

5. This dispute was going on when the appellant approached this Court by filing C.W.J.C. No. 8534 of 2018 that was disposed of with a direction to consider the claim of the



petitioner.

6. The writ petition giving rise to this appeal was filed at the stage when the respondents proceeded to issue a fresh tender and the appellant challenged the same on the ground that since his dispute has not been decided as yet therefore no settlement should be made in relation to the contract work of Mid Day Meal of Block Suryagarha.

7. An order of status quo was passed on 24th September, 2018 in the writ petition, but it appears that the respondents awarded the contract in favour of the respondent Arbind Kumar on 26th September, 2018. Interlocutory Applications were filed questioning the same and after exchange of affidavits the learned Single Judge has proceeded to dismiss the writ petition holding that the decision taken on 26th July, 2018 is valid and is founded on relevant material.

8. Learned counsel for the appellant submits that so far as non-suiting the petitioner on the ground of his having not performed at Halsi Block is concerned, there was no deficiency on the part of the appellant but it was on account of non-payment by the respondents that he had to resign. We find that since the appellant had resigned on his own volition, it was taken to be a deficiency on his part to perform.



9. Apart from this, we find that on 3rd of May, 2018 a detailed report was sent by the District Programme Officer, Lakhisarai wherein also the representations made were that on account of the deficient work and conduct of the appellant he does not deserve to be granted any extension and the work should be allotted by way of a fresh contract.

10. On the other hand, learned counsel for the appellant has invited the attention of the Court to the letter of the Director dated 12th July, 2018 where it has been recited that the matter should be placed before the Committee presided over by the District Magistrate for decision in accordance with law. It is thereafter that on 26th of July, 2018 the matter was considered and taking stock of the situation as well as the report dated 3rd of May, 2018 the Committee arrived at the conclusion that the appellant is not entitled to any such relief as claimed by him keeping in view his past work and conduct.

11. We find on a perusal of the order passed by the said Committee that it has taken into account the contention of the appellant as also the deficiencies which were pointed out in the past performance of the appellant. The consideration appears to be objective and we do not find any perversity therein so as to find fault with the conclusion drawn by the



learned Single Judge. We, therefore, find no merit in the appeal which is accordingly rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Jagdish/-

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CAV DATE	
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