

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15641 of 2019

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M/s Supreme Enterprises, a company having its Registered Office at East Ashok Nagar, Road No. 14(B), Kankarbagh, Patna Bihar through its Authorized Representative Mr. Harsh Vardhan Singh.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Urban Development and Housing Department, New Secretariat, Patna.
2. District Magistrate, Rohtas at Sasaram.
3. Executive Officer, Nagar Parishad , Sasaram.
4. Standing Committee, Nagar Prishad, Sasaram through its Chairman.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 14964 of 2019

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M/s Supreme Enterprises a Company having its Registered Office at East Ashok Nagar, Raod No. 14(B), Kankarbagh, Patna, Bihar through its Authorized Representative Mr. Harsh Vardhan Singh

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3. Executive Officer Nagar Parishad, Sasaram
4. Standing Committee Nagar Parishad, Sasaram through its Chairman

... .. Respondents

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Appearance :

(In Civil Writ Jurisdiction Case No. 15641 of 2019)

For the Petitioner/s	:	Mr.Anurag Saurav, Advocate
		Mr.Priyajeet Pandey, Advocate
For the State	:	Mr.Subhash Prasad Singh (GA-3)
For the Sasaram Nagar Parishad	:	Mr.Vijay Shankar Upadhyay, Advocate

(In Civil Writ Jurisdiction Case No. 14964 of 2019)

For the Petitioner/s	:	Mr.Anurag Saurav, Advocate
		Mr.Priyajeet Pandey, Advocate
For the State	:	Mr.Rajiv Roy, (GP-1)
For the Sasaram Nagar Parishad	:	Mr.Vijay Shankar Upadhyay, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD



ORAL ORDER

3 15-11-2019 In both these writ applications the petitioner is the same and the one firm and is looking for issuance of a writ in the nature of a writ of mandamus directing respondent authorities particularly Respondent No. 3 to revive the work order of the petitioner in pursuance to the decision taken by the Standing Committee, Nagar Parishad, Sasaram in its meeting held on 25.04.2018. It is the case of the petitioner that the respondent Nagar Parishad had invited a tender for supply of (i) Desilting Machine no. 1 (ii) Dump Tank No. 3. In the said tender the petitioner had participated and being the lowest bidder his financial bid was accepted. A work order dated 21.03.2016 as contained in Annexure '2' to both the writ applications was issued for supply of the machines.

The petitioner submits that he purchased four trucks of Tata Xenon from M/s Jagat Radha Motors Pvt. Ltd. a dealer of M/s Tata Motors in the name of Nagar Parishad, Sasaram and the said Truck chassis was purchased for mounting of (1) Desilting Machine no. 1 (2) Dump Tank No. 3 which was to be mounted at Bhiwari, Rajasthan. The petitioner vide his letter dated 10.02.2017 requested the Executive Officer, Nagar Parishad to provide a temporary registration number so that the Truck could be transported to Bhiwari, Rajasthan for mounting



of equipments. No reply was received by the petitioner. On 25.10.2017, the Executive Officer, Nagar Parishad, Sasaram terminated the work order of petitioner without assigning any reason. No show cause notice was issued to the petitioner prior to termination of the work order and no permission had been obtained from the Standing Committee or the Board of the Nagar Parishad.

The petitioner, thereafter, represented before the authorities against the termination of the work order and informed the respondent authorities that materials were ready and lying for inspection. Annexure '5' to the writ applications are the letters dated 09.11.2017 and 02.12.2017. It is submitted that on 25.04.2018 the Empowered Standing Committee called a meeting for discussion with regard to the pending work of Nagar Parishad and in the said meeting a decision was taken by the Empowered Standing Committee to revive the work order of petitioner for supply of four chassis at respondent Nagar Parishad. The decision of the Standing Committee is contained in Annexure '6' to the writ application. It is specifically stated in Paragraph '14' of the writ application that the decision of the Standing Empowerment Committee has been approved by the Board in its meeting held on 18.06.2018 (Annexure '7' to the



writ application). The specific case of the petitioner is that it is the Executive Officer, Nagar Parishad, Sasaram who has not issued any consequential letter providing instruction or direction for supply of the equipments.

On earlier occasion this Court while taking note of the submissions of the learned counsel for the petitioner passed the following order on 29.08.2019 :-

“Re. : I.A. No. 01 of 2019

Interlocutory Application No. 01 of 2019 has been filed seeking addition of the relief prayed in the writ application. In the Interlocutory Application now the petitioner is challenging the memo bearing No. 2572 dated 25.10.2017 (Annexure ‘8’ to the writ application) issued by the Executive Officer, Nagar Parishad, Sasaram whereby the work order of the petitioner bearing (i) work order letter no. 980 dated 21.03.2016 for supply of Desilting Machine No. 1 (ii) Dump Tank No. 3, have been terminated. It appears that the copies of the Interlocutory application were served upon learned counsel for the State as well as Nagar Parishad, Sasaram.

Learned counsel for the State as well as learned counsel for the Nagar Parishad are present and they have no objection to I.A. No. 01 of 2019 be allowed and the same be treated as part and partial of the writ application.

I.A. No. 01 of 2019 is, thus, allowed.

Re.: C.W.J.C. No. 15641 of 2019

Learned counsel for the petitioner has shown from the minute of the Empowerment Committee of the Nagar Parishad, Sasaram as appearing at Annexure ‘6’ to the writ application that after considering the fact that the petitioner had supplied the four chassis, the Committee had recommended for revival of the work order. It has been further shown from Annexure ‘7’ that the resolution of the Empowerment Committee has



been confirmed in the general meeting of the Nagar Parishad held on 18.06.2018. Learned counsel submits that in view of the decision of the Empowerment Committee which has been approved in the general meeting now only a formal order is required to be issued to recall the impugned order as contained in Annexure '4' of the writ application, but the Executive Officer, Nagar Parishad (respondent no. 3) is sitting over the matter and has not issued the consequential order.

Learned counsel for the State as well as Nagar Parishad, Sasaram pray for some time to file counter affidavit. Let it be done within two weeks from today.

Let the matter be listed after three weeks on 20.09.2019 under the same heading.

In the meantime, it will be open for the Executive Officer (respondent no. 3) to issue necessary order in terms of the decision of the Empowerment Committee which has been approved in the general meeting of the Nagar Parishad vide Annexure '7' to the writ application. If the consequential order is not issued, the reason therefor must be shown in the counter affidavit."

Pursuant to the aforesaid order, a counter affidavit has been filed on behalf of respondent no. 3 i.e. the Executive Officer, Nagar Parishad, Sasaram (Rohtas). In her counter affidavit the respondent no. 3 does not deny the assertion of the petitioner that there is a decision/resolution of the Empowerment Committee and the General Body of the Nagar Parishad, Sasaram. All that has been said by respondent no. 3 is that she has written a letter dated 31.08.2018 to the Chairman of the Nagar Parishad stating therein that the petitioner has not executed the agreement and on the chart showing the



comparative rate the Purchase Committee has not signed, therefore, the decision to revive the work order may be revisited. Annexure 'A' to the counter affidavit is the copy of letter dated 31.08.2018 written by the Executive Officer, Nagar Parishad, Sasaram to the Chairman of the Nagar Parishad. In Paragraph '5' of the counter affidavit it has been submitted that the answering respondent will pass an appropriate order without loss of any time.

Learned counsel for the petitioner submits that once the Standing Empowerment Committee and the Board of the Nagar Parishad, Sasaram has approved the revival of the work order, the Executive Officer cannot sit over the matter and what has been done by him/her by writing Annexure 'A' to the counter affidavit is nothing but an exercise of power which is not vested in him/her inasmuch as he/she has called upon the Chairman of the Nagar Parishad to revisit the revival order.

Learned counsel for the Nagar Parishad, Sasaram submits that it is the stand of the Executive Officer that she will pass appropriate order without loss of any time, therefore, appropriate direction may be issued keeping in view the facts and circumstances of the case.

Having heard learned counsel for the parties and on



perusal of the records, this Court finds that the facts of the case are not in dispute. The petitioner has brought on record the minute of the meeting of the Standing Empowerment Committee showing that the said Committee had taken a decision to revive the work order of the petitioner (Annexure '6' to the writ application) and thereafter vide Annexure '7' to the writ application, the Board had also approved the decision of the Empowered Standing Committee.

In the opinion of this Court, once the Board has approved the decision of the Empowered Standing Committee to revive the work order, the Executive Officer of the Nagar Parishad, Sasaram had unnecessarily delayed the execution of the order of the Board by sitting over the matter. He has taken a plea with reference to Annexure 'A' to the counter affidavit but the perusal of the Annexure 'A' does not inspire much confidence with the reasons shown by the Executive Officer, Nagar Parishad, Sasaram. It is not disputed that the petitioner happened to be the lowest bidder and for that reason he was declared successful and a work order was issued in his favour. Execution of agreement is now a mere formality which has to be completed and the Executive Officer, Nagar Parishad should have proceeded to call upon the petitioner to execute the



agreement. There is no reason as to why he/she would call upon the Chairman of the Nagar Parishad to revisit the revival order for insignificant reasons when work order had already been issued earlier and revival order has been consciously taken by the Empowered Standing Committee and approved by the Board.

In the aforesaid view of the matter, both the writ applications are hereby allowed. The Executive Officer, Nagar Parishad, Sasaram (Respondent No. 3) is directed to issue necessary revival order and after restoring the work order of the petitioner he/she would call upon the petitioner to execute the agreement which the petitioner will do without any delay. Respondent No. 3 shall complete all these formalities within a period of 30 days from the date of receipt/production of a copy of this order Respondent No. 3 shall proceed to give effect to the work order and the agreement and take delivery as per the work order.

Both the writ applications are, thus, disposed off with the aforesaid directions.

(Rajeev Ranjan Prasad, J)

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