

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1791 of 2017

In
Civil Writ Jurisdiction Case No.4933 of 2016

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1. The State of Bihar through the Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
 2. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
 3. The Chief Engineer-2, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
 4. The Superintending Engineer, Rural Works Department, Works Circle, Munger.
 5. The Executive Engineer, Rural Works Department, Work Division, Lakhisarai.

... .. Responents- Appellant/s

Versus

M/s B. D. Construction through its Partner Mr. Gajraj Kumar, Son of Late Dinkar Sharma, Resident of Mohalla- Garhper Harihar Niketan, P.S.+P.O.- Biharsharif, District- Nalanda, Pin- 803101.

... .. Petitioner- Respondent/s

Appearance :

For the Appellant/s : Mr. Mritunjay Kumar AC TO AAG 6
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 13-12-2019 The operative part of the impugned order dated 08.08.2016 passed in CWJC No.4933 of 2016 titled as M/s. B. D. Construction Versus The State of Bihar & Ors. reads as under:-

“In the said circumstances, although the petitioner claims Rs.7,91,000/- but since Rs.7,42,979/- has been admitted in the counter



affidavit as payable to the petitioner, the respondents are clearly obliged to pay the same.

The writ application is, accordingly, allowed. The impugned order contained in letter No.09 Anu dated 4.1.2016 issued by the Engineer-in-Chief, in so far as it concerns the petitioner, is quashed and it is directed that any action of debarment against the petitioner can only be taken on adjudication of the dispute before an appropriate forum, whether in a court or an arbitral tribunal. It is further directed that the respondents shall pay the admitted amount of Rs.7,42,979/-to the petitioner within a period of three months from today, subject to the Quality Control Report which they may obtain within the said period and even upon failure to obtain the same, the said amount shall be paid to the petitioner at the first instance. So far as the remaining amount is concerned, it shall be open to the petitioner to agitate the claim before appropriate forum and similarly for other claims, if any, arising out of the said contract the petitioner is given liberty to pursue the same before the appropriate forum in appropriate proceedings.”

As we read, the impugned order was passed on the basis of admission made by the respondents-appellants herein. Also the amount was to be disbursed, subject to the Quality



Control Report.

We fail to understand as to why the appeal was preferred at the first instance.

We do not find any infirmity in the impugned order.
As such the appeal stands dismissed.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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