

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25054 of 2019

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Kamalpura Construction Co. Pvt. Ltd. through its Managing Director Sri Nath Ram Sharma, aged about 70 years, (Male), Son of Ram Swarup Sharma, Resident of Kishor Nagar, P.s.- Sadar, Bhagwanpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Engineer- in - Chief Cum Additional Commissioner Cum Special Secretary, Building Construction Department, Govt. of Bihar, Patna.
4. The Chief Engineer (North), Building Construction Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Chitranjan Sinha (PAAG2) Mr. Shailendra Kumar, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 13-12-2019 Heard Mr. P. K. Shahi, learned senior Advocate

for the petitioner and Mr. Shailendra Kumar, AC to

PAAG-2.

The petitioner has challenged the order dated

28.10.2019 issued by the Engineer in Chief-cum-

Additional Commissioner-cum-Special Secretary, Building

Construction Department, Government of Bihar, Patna,

whereby the registration of the petitioner as a Contractor



has been suspended for one year on the ground of his not having disclosed the existing commitment and ongoing work with respect to a different contract allotted to him.

The aforesaid order has been challenged on three grounds; first being that there was no existing commitment and ongoing work as the other contract about which reference has been made in the order, the bid was preferred by him after he furnished his tender papers in the present NIT.

Apart from this, it has been submitted that there is no violation of the provision of Section 4.8 of the SBD under which the work has been entrusted to the petitioner.

Section 4.8 of the aforesaid SBD indicates that even though a bidder would have all the qualifying criteria but he would be subject to disqualification if he has made any misleading or false representation in the forms, statements and attachment submitted in proof of



the qualification requirements or has a record of poor performance of abandoning or not properly completing the work and finally of having participated in any previous bidding for the same work and having quoted unreasonable high price without any rational justification for the same.

None of these conditions appear to have been violated by the petitioner, which facts have not been taken into account by the Committee which considered the case of the petitioner for inflicting the aforesaid punishment under the Bihar Contractor Registration Rules, 2007.

The other ground which has been raised on behalf of the petitioner is that the order does not indicate any application of mind in as much as it was not even inquired whether there has been any agreement with the petitioner in the other contract ultimately.

It is the case of the petitioner that even though he had participated in the tender but no agreement was



entered into by him for any such work.

In the absence of any existing commitment of the petitioner, he cannot be faulted with for not having disclosed such information.

It has also been submitted that rule 11 of the Bihar Contractor Registration Rules of 2007 does not indicate this, namely, non-disclosure of ongoing commitment, to be any ground for suspending or black-listing any firm.

Considering the afore-stated aspects, it appears that such issues have not been adverted to while passing the order impugned.

The order therefore cannot be sustained in the eyes of law and the same is set aside.

However, it would be open for the Engineer in Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna (Respondent No. 3) to afford an opportunity to the petitioner to represent his



case within a period of three weeks from the date of production of a copy of this order, whereafter a fresh order shall be passed in accordance with law and in terms of what has been stated in this order.

With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

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