

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22434 of 2018

Shree Mahavira Buildwell Private Limited, Exhibition Road, Patna through its Director Vishal Agarwal, Son of Shri Mahavir Prasad Agarwal, Resident of Flat No.- B/3, Gupteshwar Mension, East Boring Canal Road, Police Station- North S.K. Puri, Patna- 800001 Bihar.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Vishweswaraiya Bhawan, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan,
3. The Engineer-in- Chief, Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan,
4. The Chief Engineer, Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Patn
5. The Superintending Engineer, Road Construction Department, Road Circle, Purnia.
6. The Executive Engineer, Road Construction Department, Road Division, Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjeet Kumar, Advocate
For the Respondent/s	:	Mr.Syed Iqbal Ahmad- Sc20
		Mr. Pravini Kumar, AC to SC-20

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-07-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

The petitioner in the present is aggrieved by and dissatisfied with the order contained in letter no. 98 dated 30.01.2018 (Annexure 'P/1') issued under the signature of the Executive Engineer, Road Construction Department, Government of Bihar by which the petitioner has been debarred from participating in other departmental tenders till completion



of the work in Agreement No. 02F2/2013-14.

Learned counsel for the petitioner submits that subsequently the aforesaid debarment order has been recalled vide office order contained in 1134 dated 12.10.2018 (Annexure 'P/16') but while calling the debarment order it has not been clarified that from which date the recall order will be applicable.

Learned counsel submits that for various reasons the petitioner had contended before the respondent authorities that the order of debarment is not a just and proper order in the given facts and circumstance of the case. Learned counsel submits that the petitioner had brought to the notice of the respondent department the major hindrances which were in fact practically difficulties in execution of the work. One of such difficulties was with regard to the electric wires going over the house of the villagers which could have caused accident.

It is submitted that the petitioner had pointed out other reasons which are solely attributable to the respondents which led to delay in completion of the work but while passing the order as contained in Annexure 'P/16' the plea of the petitioner has not been considered, although the petitioner has been removed from the debar list but it is likely to tell against the



reputation of the petitioner and in a given circumstance it may effect his participation in any of the tenders.

Learned counsel for the petitioner has brought to the notice of this Court an earlier decision of this Court vide order dated 11.03.2019 passed in C.W.J.C. No. 22350 of 2018 from which it has been shown that in similar circumstance, in the said case Annexure 'P/1' was set aside by this Court on the ground of non-consideration of the reply of the petitioner.

Learned counsel for the State submits that in the given facts and circumstance of the case, this Court may pass a similar order as has been passed in C.W.J.C. No. 22350 of 2018 (Annexure '17').

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that in C.W.J.C. No. 22350 of 2018, the fact was that the petitioner had already competed the work, therefore, this Court had passed an order clarifying that the order contained in Annexure 'P/1' in the said case shall not be treated in existence for any future tenders. In the present case it appears from Annexure 'P/16' that 90 % of the work has been completed, thus, on completion of the total work the petitioner will be at liberty to file an appropriate application before the concerned authority seeking



to clarify that the order contained in Annexure 'P/1' shall not be treated in existence for any future tender. On filing such application after completion of the work, the competent authority shall pass an appropriate order taking into consideration the previous order of this Court within a period of sixty days.

This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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