

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1561 of 2020

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Birendra Prasad Yadav, son of Yodhan Ray, resident of Rajopatti, Sitamarhi,
P.S. and District- Sitamarhi.

... .. Petitioner/s

Versus

1. The Bihar State Educational Infrastructure Development Corporation Limited (a Government of Bihar Undertaking) having its office at Shiksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna- 800004 through its Managing Director.
2. The Managing Director, Bihar State Educational Infrastructure Development Corporation Limited (a Government of Bihar Undertaking), having its office at Shiksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna- 800004.
3. The Chief Engineer, Bihar State Educational Infrastructure Development Corporation Limited (a Government of Bihar Undertaking), having its office at Shiksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna- 800004.
4. The Superintending Engineer, Bihar State Educational Infrastructure Development Corporation Limited (a Government of Bihar Undertaking), having its office at Shiksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna- 800004.
5. The Executive Engineer, Bihar State Educational Infrastructure Development Corporation Limited (a Government of Bihar Undertaking), Tirhut (East) Division, Shiksha Bhawan, Bihar Rashtrabhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna- 800004.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad, Advocate
For the Respondent/s : Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 26-02-2020 Heard Mr. Raj Kishore Prasad for the petitioner

and Mr. Girijish Kumar for the Bihar State Educational

Infrastructure Development Corporation Limited.

The order under challenge in the present

petition is dated 18.11.2019 passed under the signature



of the Chief Engineer of the Corporation which has the approval of the competent authority.

By the aforesaid order, because of the petitioner not having completed the work allotted to it within time, he has been slapped with a suspension order.

The order does not specify whether the suspension under the provisions of Bihar Contractors Registration Rules, 2007 is with respect to any work of Bihar State Educational Infrastructure Development Corporation Limited or with respect to any governmental work in the State of Bihar.

Mr. Raj Kishore Prasad, learned advocate for the petitioner has referred to Section 11 of the Bihar Contractors Registration Rules, 2007 to contend that such conditional suspension also could not have been ordered without issuance of notice and seeking an explanation from the petitioner. He further asserts that no notice has been given to him for such suspension.



Mr. Girijish Kumar, learned advocate for the Bihar State Educational Infrastructure Development Corporation Limited however has pointed out from the averments made in the writ petition that in the past, the petitioner was intimated about the slow pace of work carried out by the petitioner and was asked to accelerate the work pace or else necessary action would be contemplated and taken against the petitioner in his capacity as contractor.

He further submits that such intimation is nothing but a notice to the petitioner and when the same was not responded to, passing of an order of suspension cannot be looked askance at.

From the perusal of the records, it appears that the petitioner who is a Class-II contractor and had been entrusted with the work of construction of schools at the *panchayat* level had not completed the work allotted to it by the Corporation.

However, according to the averments made in



the writ petition, more than fifty percent of the work has been carried out and the delay in completion of work cannot solely be attributed to the petitioner.

In any view of the matter, looking at the order impugned, this Court is of the view that the order is only a conditional order of suspension in case the work is not completed. The order specifies that the suspension would remain effective till the time the work is completed.

The aforesaid phraseology of the order impugned clearly presupposes that the petitioner has been permitted to continue with the work with a direction that the work ought to be completed. Till such completion, if the contract has been suspended, it would be deemed to be a limited suspension i.e. suspension of the capacity of the petitioner to undertake any fresh work of the Bihar State Educational Infrastructure Development Corporation Limited but not with respect to other government work. Had it not been the case, the order would have read otherwise.



In any view of the matter, in the event of no specific notice requiring the petitioner to answer to the reasons for such slow pace of work or non-completion of work within a stipulated time, such order can only be read to be a conditional order of suspension i.e. limited to the work of the Corporation and not anything else.

This order has been passed on an undertaking given by the counsel for the petitioner that work shall surely be completed at an accelerated pace and preferably within a period of six months from today.

The writ petition stands disposed off.

(Ashutosh Kumar, J)

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