

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7284 of 2020

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Nurshing Construction having its office at H. No. 23 Road No. 3A Mahesh Nager Patna 800024 through proprietor Rajeev Kumar, aged about 35 years, Gender- Male, son of Munip Kumar Prasad, resident of Road No. 3A, Mahesh Nagar, P.S.- Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Public Health Engineering Department, Patna.
3. The Engineer in Chief Cum Special Secretary, Public Health Engineering Department, Patna.
4. The Chief Engineer, Public Health Engineering Department, Patna.
5. Superintending Engineer, Public Health Engineering Department, Patna.
6. Executive Engineer, Public Health Engineering Division, Patna East, Patna.
7. Assistant Engineer, Public Health Engineering Department, Patna East, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K. Sinha, Sr. Adv.
For the Respondent/s : Mr. Arvind Ujjwal, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 05-10-2020

Heard Mr. D.K. Sinha, learned Senior Advocate
for the petitioner and Mr. Arvind Ujjwal, learned Advocate
for the State.



2. A prayer has been made to correct the name of the petitioner.

3. Let the name of the petitioner in the cause title be read and spelled as 'Nurshing' Construction.

4. The petitioner has challenged the orders dated 18.06.2020 and 22.06.2020 respectively issued by the respondent/Executive Engineer, whereby the contract work allotted to the petitioner has been cancelled, the security amount forfeited and the petitioner has been recommended to be blacklisted. A date also has been fixed for measurement of work done by the petitioner.

5. It has been submitted on behalf of the petitioner that pursuant to a tender notice published on 24.06.2019 for design, construction, supply, testing commissioning of water supply scheme with electric driven motor pump in different wards of the *Panchayat* falling in the district of Patna, the petitioner had applied and was selected for five wards. Out of those five wards, he commenced the work in right earnest and completed the work in two of such wards. With respect to three wards, necessary infrastructure



was not provided by the respondents and despite several communication on the part of the petitioner, no heed was paid to such request. It has further been submitted that the orders referred to above have been passed without noticing the petitioner.

6. The petitioner has also brought on record the notice for fresh tender for the unfinished works.

7. Mr. D.K. Sinha, learned Senior Advocate for the petitioner has submitted that in a similar matter, in a different district, under the same scheme, this Court has taken note of the fact that without notice to the petitioner, the contract has been rescinded and the security amount has been forfeited. In that case (C.W.J.C. No. 6378 of 2020), by order dated 24.08.2020, this Court has directed for an opportunity to be given to the petitioner therein to explain his cause for non-completion of his work and only on evaluation of such explanation, a final decision be taken.

8. Mr. Arvind Ujjwal, learned counsel for the State submits that the same privilege may be given to the petitioner as it would only cut-short the time and may be,



the work would be finished earlier. Floating of a fresh tender for unfinished work entails cost and time both.

9. The petitioner, therefore, is directed to submit his explanation afresh before the Executive Engineer, Public Health Engineering Division, Patna East, Patna within a period of three weeks, which shall be received by the concerned respondent, who shall evaluate such explanation in proper perspective and shall pass an order in speaking terms, which order shall be communicated to the petitioner. This exercise shall be completed within a period of two weeks from the date of receipt of such explanation by the petitioner.

10. It is expected that before the same is done, the process of finalizing the contract/agreement with any third party for the unfinished work shall not be taken. Any further delay on the part of the petitioner to furnish his explanation or on the part of the concerned respondent in passing a final order on such explanation shall be viewed adversely as it would affect the timely completion of the public work, which would otherwise benefit the people of this



State.

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

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.10.2020
Transmission Date	N/A

