

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13060 of 2018

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Rajesh Kumar Son of Sri Narendra Kumar Pandey, resident of Gupta Marked,
Near Alpana Market, Patliputra Colony, P.S.- Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Engineer in Chief, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Chief Engineer Design, Public Health Engineering Department, Govt. of Bihar, Patna.
4. The Regional Chief Engineer, Public Health Engineering Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, Public Health Engineering Circle, Motihari.
6. The Executive Engineer, Public Health Engineering Division, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Singh, Advocate
Mr. Satyendra Rai, Advocate
For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

6 13-01-2020 Heard the learned counsel for the parties.

The petitioner, an agent who was selected for a particular tender, has challenged the order dated 20.09.2017 passed by the Chief Engineer (Design),



PHED, as also the consequential order dated 14.09.2019, whereby the petitioner and 58 other contractors have been held to be defaulters in executing the work in time and have been prevented from taking part in any other tender sponsored by the Government.

The major ground of challenge of these orders is that no notice was served upon the petitioner to explain his cause nor was his explanation ever taken into account.

In the first counter affidavit which has been filed, there is no reference of the aforesaid ground taken by the petitioner. However, in the second / supplementary counter affidavit, it has been asserted that the grounds raised in the petition viz that the land was made available to the petitioner only late in the day for him to be dubbed as defaulter is an aspect which deals with the facts of the case.

The ground raised in the present petition is that without hearing the petitioner, such an order which has



serious civil consequences has been passed.

There is no denial of the fact, as it appears from the affidavit exchanged between the parties, that the petitioner was never heard with respect to debarment. The tenor of the order also depicts that stock order was passed with respect to 59 contractors for not having completed the work within the stipulated time.

The orders, therefore, so far as the petitioner is concerned as the petitioner has only moved this Court in the present petition, are set aside.

The matter is remanded to the Chief Engineer (Design), PHED, Government of Bihar, Patna (Respondent No. 3) for giving proper opportunity to the petitioner to explain his cause and thereafter a fresh order would be passed by the concerned respondent, taking into account all the grounds raised by the petitioner and the order shall be an informed one in as much as reasons shall be accorded for the decision taken



by the concerned authority.

The writ petition is allowed to the extent
indicated above.

(Ashutosh Kumar, J)

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