

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11809 of 2021

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Kashish Developers Limited, Registered office at 87 Old AG Colony, Kadru, Ranchi, Jharkhand- 834002, Local address at- 201, Kamla Sadan Apartment, Punai Chak, District- Patna, through its Director Mukesh Kumar, aged about 45 years, Gender- Male, Son of Sri Mukut Prasad Rao, Resident of 171, Mushahari, Bijbaniya, P.S.- Lauriya West Champaran, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Building Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Chief Engineer, Building Construction Department, Government of Bihar, Patna.
4. The Superintending Engineer, Building Division, Katihar, Building Construction Department, Bihar, Patna.
5. The Executive Engineer, Building Division Katihar, Building Construction Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar, Advocate
For the Respondent/s : Mr.Lalit Kishore (Ag)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

I) For setting aside the order as contained in Letter No.510 dated 15.06.2021 passed by the Executive Engineer, Building Constitution Department, Building Division, Katihar, whereby he has ordered for execution of work at the cost of the petitioner even without termination of the agreement bearing Agreement No.05(SBD) / 2016-17 and has also recommended

for blacklisting of the petitioner, which is completely non-speaking and passed in violation of principle of natural justice.

ii) The petitioner further prays for setting aside the Notice Inviting Tender bearing SBD Tender No.01/2021-22 dated 02.06.2021 issued with the signature of Executive Engineer, Building Construction Department, Building Division, Katihar whereby a fresh tender has been issued for the balance work of the construction of Katihar Engineering College, Katihar, even without termination of the agreement of the petitioner.

iii) The petitioner further prays that the respondent authorities be directed to allow the petitioner to execute the balance work i.e., 33% of the work under Agreement No.05(SBD)/2016-17 as the petitioner is still ready to execute and complete the balance work even on the old rate and that to within a period of six 6-9 months.

iv). For any other relief for which the petitioner may be deemed entitled to.”

The instant petition stands filed challenging the action emanating out of the written agreement dated 07.03.2017, whereby, the petitioner was awarded certain public works for construction by the Building Construction Department. The Building Construction Department initiated the impugned action based on the alleged violations of such agreement about which there is a serious dispute.

We notice that parties to the agreement have bound themselves to the dispute resolution mechanism, statutory as also contractual. The alternate remedies are equally efficacious.

We are informed that the Bihar Public Works Contracts

Disputes Arbitration Tribunal constituted under the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008 is functional and fully competent to adjudicate the dispute inter se the parties, including the subject matter of the present lis. Also, we notice that the petitioner has remedy of resorting to the process of mediation and arbitration.

In this view of the matter, we dispose of the present petition reserving liberty to the petitioner to take recourse to such remedies, as the petitioner is entitled to; may so choose; and decide to take recourse to.

Petition stands disposed of only on the ground that petitioner has an equally alternate efficacious remedy. It is not that this Court does not have the jurisdiction to decide the lis but disputed question of fact can best be adjudicated before the said forum and not in these proceedings initiated under Article 226 of the Constitution of India.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2021
Transmission Date	NA