

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.74 of 2021
In
Civil Writ Jurisdiction Case No.13112 of 2018

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Engineer-in-Chief, Public Health Engineering Department, Government of Bihar, Secretariat, Bihar, Patna.
3. That Chief Engineer (Design), Public Health Engineering Department, Government of Bihar, Patna.
4. The Regional Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna.
5. The Superintendent Engineer, Public Health Engineering Circle, Motihari.
6. The Executive Engineer, Public Health Engineering Division, Bettiah.

... .. Appellant/s

Versus

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

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vishwambhar Prasad, Advocate
Mr. S. Raza Ahmad, AAG-5
Mr. Alok Ranjan, AC to AAG-5

For the Respondent/s :

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

Date : 09-09-2021

The appellant has prayed for the following relief/s :-



That this Letter Patent Appeal is being preferred against the judgment and order dated 07.11.2019 passed by Hon'ble Mr. Justice Rajeev Ranjan Prasad in C.W.J.C. No. 13112 of 2018 whereby the Hon'ble Court has been pleased to allow the writ application with following observation "Having heard learned counsel for the petitioner as well as the State, this Court is of the considered opinion that the impugned order as contained in Annexure '7' to the writ application has been passed in haste and before passing of the said order which has civil consequence of debarment of the petitioner from participating in future tender, the Chief Engineer (Design) did not gather the true and correct facts from his own department. The fact that the petitioner had made available a copy of the design and drawing to the Executive Engineer as back as on 25.04.2016 but the same was made available to him after approval in December, 2017 only has not been denied by the respondents. If such assertion of the petitioner has not been denied by the State-Respondents and the same has been found to be a good ground for granting him extension, this Court is



unable to appreciate as to how an officer at the level of Chief Engineer (Design) would have acted in such haste to pass an order of debarment against the petitioner without giving him an opportunity to show cause. The order as contained in Annexure '7' is, thus, liable to be held bad and as such the same is hereby set-aside.

Let the decision with regard to extension of time be taken as expeditiously as possible in view of the recommendation made in Annexure '11' to the rejoinder.

For passing such order in haste debarring the petitioner leading to filing of this application and the petitioner having been made to spend on litigation, this Court awards a cost of Rs. 15,000/- to the petitioner which will be paid by the department within a period of one month from today. The cost shall be realized from the erring officers."

We do not find any reason sufficient enough to interfere with the impugned order dated 07.11.2019 passed by the learned Single Judge in CWJC No. 13112 of 2018, titled as **Rajesh Kumar**



Vs. The State of Bihar & Ors.

The action of the authority was found to be illegal inasmuch as no opportunity of hearing was afforded to the private party before passing the order, entailing civil consequences, whereby the party was debarred from participation in future tender.

The party may have been defaulted in executing the work but then Department did not initiate action in terms of the agreement and straightway, without notice, passed a stereo type order with respect to 59 contractors, including the private respondent herein, debarring them from participating in work to be allotted by the State.

The cost of Rs.15,000/- imposed upon the State cannot be said to be disproportionate or on the higher side.

As such, the appeal stands dismissed.

Interlocutory application, if any, shall also stand dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit/

AFR/NAFR	
CAV DATE	
Uploading Date	15.09.2021
Transmission Date	

