

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25332 of 2019

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1. M/s Charith - Pawan Kumar (JV) through its authorized signatory, namely Kalvakuntla Srinivas Reddy, aged about 45 years (Male), son of Pulla Reddy, resident of Flat No. 501 A, Sant Sai Enclave, Nehru Nagar, Van Vibhag Road, P.O. and P.S.-Patliputra, District-Patna, having permanent residence at Plot No. 2712 to 276, F. No. 201, Ace Ranta Pearis Apts, Rock Town Colony, Road No. 2, 8th Cross Reliance Petrol Pump, Nagole, L.B. Nagar, Hayaderabad, Telangana.
 2. M/s Charith Infrastructure Pvt. Ltd. through its Director, namely Kalvakuntla Srinivas Reddy, aged about 45 years (Male), son of Pulla Reddy, resident of Flat No. 501 A, Sant Sai Enclave, Nehru Nagar, Van Vibhag Road, P.O. and P.S.-Patliputra, District-Patna, having permanent residence at Plot No. 2712 to 276, F. No. 201, Ace Ranta Pearis Apts, Rock Town Colony, Road No. 2, 8th Cross Reliance Petrol Pump, Nagole, L.B. Nagar, Hayaderabad, Telangana.
 3. M/s Pawan Kumar, through its Proprietor namely Pawan Kumar Singh, aged about 42 years (Male), Son of Shailendra Kumar Singh, resident of Srikrishna Bihar Colony, Road No. 7A, Shanti Kunj, P.O.-Beur, Via-Anishabad, P.S. Beur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar.
2. Bihar Urban Infrastructure Corporation Ltd., West Boring Canal Road, Patna, through its Managing Director.
3. The Managing Director, Bihar Urban Infrastructure Corporation Ltd., West Boring Canal Road, Patna.
4. The Project Director, SIU-6, Bihar Urban Infrastructure Corporation Ltd., West Boring Canal Road, Patna.
5. The Chief Engineer, North Bihar Urban Infrastructure Corporation Ltd., West Boring Canal Road, Patna.
6. The Superintending Engineer, Tirhut Division, Bihar Urban Infrastructure



Corporation Ltd.

7. The Executive Engineer, Bihar Urban Infrastructure Corporation Ltd., East Champaran, Motihari Division, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Pranav Kumar, Adv. Ms. Shristhi Singh, Adv.
For the BUIDCO	:	Mr. Lalit Kishore, Sr. Adv. Mr. Rabindra Kumar Priyadarshi, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 02-09-2021

Heard Mr. Y.V. Giri, the learned Senior Advocate for the petitioners/company and Mr. Lalit Kishore, learned Senior Advocate for the Bihar Urban Infrastructure Development Corporation Ltd.

2. The respondent No. 2/Bihar Urban Infrastructure Development Corporation Ltd. (*in short the BUIDCO*) had selected the petitioners/company for renovation, rehabilitation and conservation of *Motijheel* and its maintenance and upkeep for twelve months.

3. The aforesaid agreement stands cancelled by the order impugned and the petitioners/company has been



blacklisted. The petitioners/company has also been slapped with a threat that the bank guarantee shall be encashed.

4. Mr. Y.V. Giri, the learned Senior Advocate for the petitioners/company has submitted that the show-cause reply given to the BUIDCO has not at all been considered. It has been urged on their behalf that the design of the work had to be provided by the BUIDCO, which had never been supplied. On the contrary, the petitioners/company was asked to supply the model for the BUIDCO to decide about the methodology for cleaning/de-weeding the lake in question. It has also been submitted that there was a valid reason for not commissioning the dredging machine. It has then been submitted that without adverting to all these grounds in the show-cause reply, a unilateral decision has been taken to cancel the contract, blacklisting the petitioners/company and debar them for any future contract along with a threat to encash the bank guarantee.

5. Initially, it was argued that the notice issued by the respondent No. 2/ BUIDCO was with respect to cancellation of the contract only and not with respect to



either blacklisting or debarment. Thus, it has been argued that the conditions for blacklisting and debarment have not been followed and the order, therefore, is unsustainable in the eyes of law.

6. Mr. Giri, the learned Senior Advocate, has further argued that the order passed by the respondent No. 2/ BUIDCO cancelling the contract is an order post-haste, which does not taken into account any of the grounds raised by the petitioners/company.

7. Mr. Lalit Kishore, the learned Senior Advocate for the respondent No. 2/ BUIDCO has fairly conceded to the fact that there is no notice to the petitioners/company with respect to blacklisting and debarment and, therefore, such an order is not sustainable in the eyes of law. However, with respect to cancellation of contract, the company was given an opportunity of explaining the cause and the same has been considered. He further submits that despite insistence of respondent No. 2/ BUIDCO for an early response by the petitioners/company as also for conclusion of the work in the meanwhile, no positive steps were taken



by the petitioners/company.

8. Hence, Mr. Lalit Kishore, the learned Senior Advocate defends the order cancelling the contract with the petitioners/company.

9. Mr. Giri, the learned Senior Advocate, in response to the aforesaid argument, has drawn the attention of this Court to the fact that a very short window was provided to the petitioners/company to ventilate its grievance and the order was passed on the same day when the explanation was furnished. He further reiterates and submits that none of the grounds have been taken into consideration before passing the order. More so, it has been pointed out that the request of the petitioners/company for closure of the contract for the reason that the respondent No. 2/BUIDCO did not perform its part of the obligation, has been completely ignored and an order for cancelling the contract has been passed, which would entail serious consequences for the petitioners as a company.

10. A development had take place in the interregnum when the mobilization fund was withdrawn from



one of the joint ventures of which the petitioners/company was a part. Very promptly, on an objection raised by the petitioners/company, that money was deposited in the account of the petitioners/company. Before the same was done, an application was filed by the petitioners/company for initiating an action in contempt of the Court but with the deposit of the money in the account of the petitioners/company, Mr. Giri, the learned Senior Advocate, does not press that application.

11. After having heard the learned counsel for the parties and having perused the records, this Court deems it appropriate to set aside the order of cancellation of contract, of debarment and of blacklisting. The orders referred to above are quashed. The matter is remitted to the respondent No. 2/BUIDCO to write out a fresh order with respect to cancellation of contract in accordance with law after taking into account the explanation offered by the petitioners/company.

12. It would be open for the respondent No. 2/BUIDCO to initiate any commensurate proceeding of



blacklisting and debarment against the petitioners/company, if it so desires, but only after giving an appropriate notice to the petitioners/company.

13. If the petitioners/company desires to file any supplementary explanation against the cancellation of contract, it may do so within a period of one week from today.

14. The respondent No. 2/ BUIDCO is directed to pass a fresh order regarding cancellation of contract within a period of four weeks from today.

15. 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	06.09.2021
Transmission Date	N/A

