

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4792 of 2021

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Hi Tech Sweet Water Technologies Pvt. Ltd. having its registered office At 229, 230 Turning Point, Ghod Dod Road, Surat, Gujarat, represented through its Vice President namely Sri Sunil Kumar Singh, aged about 50 years (male), son of Late Balram Singh, resident of Mohalla - Text Book Colony, Keshri Nagar, P.O. and P.S. Shastri Nagar, District- Patna, Office Address- Aprajita, Sri Krishna Puri, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Engineer-in-Chief - cum - Special Secretary, Public Health Engineering Department, Government of Bihar, Patna.
4. The Chief Engineer (Regional), Public Health Engineering Department, Government of Bihar, Patna.
5. The Superintending Engineer, Public Health, Engineering Department, Circle Bhagalpur.
6. The Executive Engineer, P.H. Division, Bhagalpur West.
7. The Executive Engineer, P.H. Division, Munger.
8. The Executive Engineer, P.H. Division, Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Senior Advocate. Mr. Pranav Kumar, Advocate. Ms. Shrishti Singh, Advocate.
For the Respondent/s	:	Mr. S. Raza Ahmad, AAG 5 Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 22-02-2022

Heard learned counsel for the parties.

Admittedly, Clause- 25 of the General Conditions of
Contract, which is part of the agreement in question, provides



for settlement of dispute in question by way of arbitration. The learned counsel for the parties are ad idem that the aforesaid clause can be invoked as far as grievance of the petitioner regarding termination/ cancellation of the agreement dated 24.04.2017 and forfeiture of performance Security Bank Guarantee is concerned, in as much as number of disputed question of facts have been raised by both the parties, more so since the same is also reflected from the order dated 16.12.2020 passed by the Engineer-in-Chief-cum- Special Secretary, Public Health Engineering Department, Government of Bihar, Patna. Accordingly, we relegate the parties to avail the remedy of arbitration.

At this juncture, the learned counsel for the parties have made a request before this Court that this Court may appoint an Arbitrator to decide the claim/ counter claim of the parties arising out of Agreement No. SBD 01/ 2017-18 dated 24.04.2017, in accordance with the provisions contained in Arbitration and Conciliation Act, 1996. We, thus, deem it fit and proper to appoint Justice Vikash Jain, a former Judge of this Court as the sole Arbitrator to adjudicate upon the disputes that have arisen between the parties in respect of the contract/ agreement in question. This is subject to the Arbitrator making



the necessary disclosure under Section 12(1) of the Arbitration and Conciliation Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996. The parties are at liberty to approach the Arbitral Tribunal for further proceedings. It is, however, made clear that the learned Arbitrator shall endeavour to decide the dispute expeditiously, preferably within a period of 12 months. We also deem it proper to grant liberty to the parties to work out the fees payable to the learned Arbitrator in consultation with him, however, the same shall not exceed a sum of Rs. 30 lacs.

Now, coming to the issue of blacklisting of the petitioner- Company, by the impugned order dated 10.12.2020, we find that no cogent reason has been assigned for blacklisting the petitioner-company for two years and it has been merely stated that the original order dated 29.5.2020 shall remain operative. We also find that as far as the original order dated 29.5.2020 is concerned, it suffers from the same vice in as much as the same also does not assign any reason for blacklisting the petitioner- company for two years.

The learned counsel for the respondents State has not been able to controvert the aforesaid position as is existing on facts as also in law.



Under the circumstances, we set aside the order dated 10.12.2020 passed by the Engineer-in-Chief -cum- Special Secretary, Public Health Engineering Department to the extent the petitioner-company has been blacklisted for a period of two years and remit this issue to the competent authority for decision afresh, which shall be taken after issuing fresh show cause notice to the petitioner herein, seeking its reply and granting an opportunity of hearing to the representative of the petitioner-company.

The writ petition stands disposed off on the aforesaid term.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

Tiwary/-

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

