

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3066 of 2020

Rohit Raj Construction Pvt. Ltd. through its Director Mr. Raj Kumar through its Director Mr. Raj Kumar, aged about 34 Year (Male), Son of Sri Chandeshwar Singh, Resident of Mohalla-Chak Kanchanpur, Ward No.1, P.O. and P.S.-Rahimapur, Vaishali, State Bihar-844502 Chak Kanchanpur, P.O.-Rahimpur, Bidupur, Hajipur, District-Vaishali, State-Bihar.

... .. Petitioner/s

Versus

1. Bihar Medical Services Infrastructure Corporation Ltd. through its Chief Managing Director, 4th Floor, Bihar State Building Construction Corporation Ltd, Hospital Road, Shastri Nagar, Patna-800023.
2. The Chief Managing Director, Bihar Medical Services Infrastructure Corporation Ltd, 4th Floor, Bihar State Building Construction Corporation Ltd, Hospital Road, Shastri Nagar, Patna-800023.
3. The Managing Director, Bihar Medical Services Infrastructure Corporation Ltd., 4th Floor, Bihar State Building Construction Corporation Ltd. Hospital Road, Shastri Nagar, Patna-800023.
4. The General Manager (Project and Design), Bihar Medical Service Infrastructure Corporation Ltd., 4th Floor Bihar State Building Construction Corporation Ltd, Hospital Road, Shastri Nagar, Patna-800023.
5. The Dy. General Manager (Projects), Bihar Medical Service Infrastructure Corporation Ltd., 4th Floor Bihar State Building Construction Corporation Ltd, Hospital Road, Shastri Nagar, Patna-800023.
6. The State of Bihar through the Principal Secretary, Health Department, 'Vikash Bhawan' Government of Bihar, Patna.
7. The Superintendent, Jawaharlal Nehru Medical College and Hospital, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manish Sahay, Advocate Mr. Anil Kumar Sinha, Advocate
For the State	:	Mr. Ramadhar Singh, GP-25 Mr. Harendra Kumar, A.C. to G.P. 25
For the B.M.S.I.C.L.	:	Mr. Lalit Kishore, Advocate General Mr. Vikash Kumar, Advocate Mr. Piyush Kumar Pandey, Advocate

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

Date : 20-09-2022



Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (I) **For quashing of debarment order**, issued vide letter No. BMSIC/80065/37-2018/1789 dated 09.07.2019 under signature of the Dy. General Manager (Projects) (i.e. Respondent No. 5), as contained in **Annexure-P-10**, by which the petitioner has been declared defaulter and debarred from participating in future tenders in most arbitrary manner and having malafide intension.
- (II) **For declaring** that the action of the Dy. General Manager (Projects) (i.e. Respondent No. 5) is arbitrariness, malafide, malicious, colourable exercise of power as well as contrary to provision of agreement.
- (III) **For further** passing such an Order or Orders for which the petitioner is entitled under the law in the facts and circumstances of this case.

We notice that vide impugned order dated 09.07.2019 (Annexure-10, Page 40), petitioner stands debarred for not having completed the work allotted in terms of agreement executed in the year 2018-19. The work was for construction of boundary wall at Jawahar Lal Nehru Medical College & Hospital, Bhagalpur.

Learned counsel for the petitioner states that the petitioner has already completed the work and this was despite



the site not being handed over in time, which is evident from the communication dated 10.08.2019 (Annexure-6, Page 34). The Superintendent of the hospital had directed the Deputy General Manager of BMSICL to hand over possession of the land in question over which the boundary wall was to be constructed.

Be that as it may, if the statement of the petitioner is accepted to be correct, then obviously the order of debarment i.e., order dated 09.07.2009 (Annexure- 10) would lose its efficacy.

Learned counsel for the petitioner states that till and so long the order is in place and not formally recalled, the respondents are not allowing the petitioner to participate in any one of the works.

Well, there is nothing on record to establish such fact, but, be that as it may, let the petitioner approach Respondent No.2, namely the Chief Managing Director, Bihar Medical Services Infrastructure Corporation Ltd, 4th Floor, Bihar State Building Construction Corporation Ltd, Hospital Road, Shastri Nagar, Patna-800023 pointing out the grievances, if any, who shall, after accounting for all the attending facts and circumstances, take an appropriate action, including passing a fresh order or recalling the order dated 09.07.2019 (Annexure-



10). This would obviously be done accounting for all the facts and circumstances, as would be placed on record.

Needful be positively done within a period of two months from the date of receipt of such request.

The present petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	23.09.2022
Transmission Date	

