

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15199 of 2021

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M/s Kumar A.S. Construction Ashok Nagar, Bhatt Bigha, Gaya through its Managing Partner Smt. Pramila Singh, Age 52 years, (F), W/o Shri Anuj Kumar Singh, Resident of Mohalla - Ashok Nagar, Bhatt Bigha, Gaya, P.S. - Rampur, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Empowered Standing Committee headed by the Secretary, Rural Works, Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer-1, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Work Circle- Gaya, District - Gaya.
6. The Executive Engineer, Rural Works Department, Gaya Division, District - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Dubey, Advocate
For the Respondent/s	:	Mr. P. N. Shahi (AAG-6)
		Mr. Mirtunjay Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 25-01-2022 The matter has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

2. The dispute in the present writ application arises out of an agreement bearing No. 22/PMGSY/SBD/2010-11



dated 17.02.2011 for construction and maintenance of 14 roads. On the ground that the petitioner failed to maintain three(3) out of 14 roads, the agreement has been rescinded by an order dated 30.11.2019, passed by the Executive Engineer, Rural Works Department, Gaya Division. The petitioner had preferred an appeal before the Empowered Standing Committee against the said order dated 30.11.2019, which has been rejected by an order dated 05.10.2020. The said two orders are under challenge in the present writ application.

3. Further, the petitioner was put to notice of blacklisting on 18.01.2021 asking it to show cause as to why the firm be not blacklisted. A final order has been passed by the Chief Engineer dated 16.07.2021, whereby the petitioner has been blacklisted under Bihar Contractors Registration Rules (Rural Works Department), 2007. The said order dated 16.07.2021 is sought to be challenged in the present writ application by way of amendment through I.A. No. 1 of 2021.

4. Given the fact that the petitioner has put to challenge the notice for blacklisting dated 18.01.2021 in the main writ application, the petitioner is permitted to challenge the order dated 16.07.2021 passed in the light of show cause notice, I.A. No. 1 of 2021 is accordingly allowed. The



averments made in I.A. No. 1 of 2021 have been treated to be part of the averments made in the writ application.

5. Learned counsel for the petitioner does not dispute that the agreement contains arbitration clause, though a copy of the agreement has not been brought on record before this Court. Further, the petitioner has a remedy of appeal against the impugned order of blacklisting. He has submitted that the petitioner chose not to prefer appeal because the order whereby rescinding of contract has been approved has been passed by the Appellate Authority under the Bihar Contractors Registration Rules (Rural Works Department), 2007.

6. Considering the admitted position that the agreement in question contains arbitration clause, we are not inclined to go into the nature of disputes as raised in the present writ application by the petitioner, which are essentially of facts.

7. In relation to the order of blacklisting, it is observed that the petitioner shall be at liberty to prefer an appeal against the said order before the Appellate Authority within four weeks from today. If the petitioner prefers an appeal within four weeks from today, it is directed that the Appellate Authority shall be obliged to consider the same on merits dealing with each and every point raised in the appeal and decide the same within a



period of 60 days from the date of filing of the appeal.

8. The petitioner shall be at liberty to make an application for any interim relief before the Appellate Authority during pendency of the appeal, which shall be decided expeditiously.

9. The writ application stands disposed of with the observations and directions aforesaid.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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