

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16029 of 2021

M/s Orange Business Services India Technology Pvt. Ltd., having its Registered Office at DSo 601-603,607-608, 6th Floor, DLF South Court Saket, New Delhi-110017 and its Corporate Office at 15th Floor, Viswaroop IT Park, Sector 30A, Vashi, Navi Mumbai-400703, India through its Sales Director, Amit Gautam Aged about, 47 Years, Male, Son of Shri Krishna Kant Gautam, Resident of B-15, Prashant Vihar, P.S. Rohini Sector-8, Narela, District-Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of BIHar having its Office at Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar having its Office at Vikas Bhawan, Bailey Road, Patna.
3. The Divisional Commissioner, Patna.
4. The Bihar Sharif Amart City Ltd., through its Managing Director having its registered office at 1st Floor, Administrative Building, Bihar Sharif Municipal Corporation, Bihar Sharif, Nalanda-803101.
5. The Chairman, Bihar Sharif Smart City Ltd. having its Registered Office at 1st Floor, Administrative Building, Bihar Sharif Municipal Corporation, Bihar Sharif, Nalanda-803101.
6. The Managing Director, Bihar Sharif Smart City Ltd. having its Registered Office at 1st Floor, Administrative Building, Bihar Sharif Municipal Corporation, Bihar Sharif, Nalanda-803101.
7. The Municipal Commissioner, Bihar Sharif, Nalanda.
8. The Chief Executive Officer, Bihar Sharif, Smart City Limited, Bihar Sharif, Nalanda.
9. CSM Technologies Private Limited, a company having its registered office at N/312 Nayapalli, Bhubaneswar, Khurda-751012, Odisha and its local office at old Incubation Building, 1st floor, STPI near Govt Polytechnic Collage, Rajeev Nagar Road, Patliputra Coloni, Patna- 800013, Bihar through its Business Head-Enterprise Business Group Namely Ashwini Kumar, Aged about 34 Years, Male, Son of Shri Uday Kant Thakur R/o 303, Sitaram Ganpati Awas Apartment, Hanuman Nagar, New Punaichak, P.S Shastri Nagar, District Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.D.Sanjay, Sr. Advocate Mr. Mohit Agarwal, Advocate Mr. Ravi Bharuka, Advocate Mr. Anand Kumar, Advocate Mr. Rahul Kumar, Advocate
For the State	:	Mr. Abbas Haider, SC 6
For the BMC	:	Mr. Lalit Kishore, A.G.



For the Intervener : Mr. Gyan Prakash Ojha, Advocate
Mr. Ranjeet Kumar, Advocate
Mr. Sanjay Singh, Sr. Advocate
Mr. Ranjeet Kumar Pandey, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date: 22-12-2022

Re. : I.A.No. 1 of 2021

For the reasons mentioned in the interlocutory application, the same is allowed and CSM Technologies Private Limited, a company having its registered office at N/312 Nayapalli, Bhubaneswar, Khurda-751012, Odisha and its local office at old Incubation Building, 1st floor, STPI near Govt Polytechnic Collage, Rajeev Nagar Road, Patliputra Coloni, Patna- 800013, Bihar through its Business Head-Enterprise Business Group Namely Ashwini Kumar, Aged about 34 Years, Male, Son of Shri Uday Kant Thakur R/o 303, Sitaram Ganpati Awas Apartment, Hanuman Nagar, New Punaichak, P.S Shastri Nagar, District Patna, is impleaded as party respondent No. 9.

Registry to make necessary correction in the memo of parties.

Re.: CWJC No. 16029 of 2021

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

“I. For issuance of a direction, order or writ, including



writ in the nature of certiorari quashing the Notice of Default dated 14.08.2021 issued by Respondent BSSCL to the Petitioner Company being wholly arbitrary and illegal;

II. For issuance of a direction, order or writ, including writ in the nature of certiorari quashing the Letter dated 26.07.2021 issued by Respondent BSSCL to the Petitioner by which the Petitioner Company has been directed to on board M/s. CSM as its consortium partner being wholly arbitrary and illegal and also contrary to the provisions of Clause 9.3 read with Clause 9.4 of the RFP dated 18.07.2019;

III. For issuance of a direction, order or writ, including writ in the nature of mandamus directing the Respondents to permit the Petitioner to replace a consortium member by a new member in place of M/s. CSM which has itself withdrawn its power of attorney leading to termination of the consortium agreement; and any other relief that the petitioners may be found to be entitled to in the facts and circumstances of the present case.”

Affidavit dated 21.12.2022 filed on behalf of the Respondent Nos. 4,5,6, & 8 is taken on record.

It is brought to our notice that *inter se* disputes between the consortium partners i.e. the petitioner, M/s CSM Technologies Pvt. Ltd. and applicant intervener-respondent No. 9, namely, CSM Technologies Private Limited, stands resolved.

In fact, the C.E.O. of both the consortium partners vide communication dated 20.12.2022, contents thereof



are extracted hereunder:-

To,

Date: 20.12.2022

**The Managing Director,
Bihar Sharif Smart City Ltd. (BSSCL)
1st Floor, Administrative Building,
Nagar Nigam, Bihar Sharif, Nalanda.**

**Subject : Response to Minutes of Meeting - Implementation of e-Gov Part of
ICCC-MSI Project at Bihar Sharif Smart City Limited**

Sir,

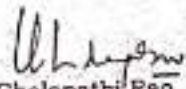
Thank you for yours and your officers' time on 8th Dec 2022 and your commitment to resolve the long outstanding and sub judice issue.

In the meeting we maintained that we came with an open intent to resolve the matter and complete the project. Perhaps since the matter was sub judice and unfortunately gave an impression that Orange and CSM are not committed to this project and can no longer work together, whereas we have been putting sincere efforts to fulfill the requirement of the project.

Post the meeting, we had continued dialogue between us and have agreed to go ahead with the implementation of balance portion of the project and would be seeking your time at the earliest to work out the modalities.

Through this communication, both CSM and Orange Business Services would like to assure you that we will implement the e-governance module as per the RFP/contract and the timelines for delivery of e-governance module shall commence immediately on receipt of acceptance to this proposal from your side.

Thanking you,


Chalapathi Rao
CEO
OBS India




Priyadarshi Pany
President and CEO
CSM Technologies



have expressed their desire of immediately commencing the work on receipt of acceptance of their proposal.

In our considered view, the petition can be disposed of reserving liberty to either of the parties to approach the Court should the need so arise, with further direction to the private parties to make themselves available in the office of the



Respondent No. 4 namely The Bihar Sharif Smart City Ltd., through its Managing Director having its registered office at 1st Floor, Administrative Building, Bihar Sharif Municipal Corporation, Bihar Sharif, Nalanda-803101 on 03.01.2023.

We are hopeful that the issue would be resolved.

Liberty reserved to the petitioner to challenge the order, if required and desired. Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law.

We have not expressed any opinion on merits and all issues are left open.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	25.12.2022
Transmission Date	

