

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20910 of 2021

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M/S Maa Bindhyavasini Construction through Santosh Kumar (M) aged about 44 years, son of Srikant Choudhary, resident of Patel Chowk, Gachhi Tola, Station Road, Ballia, P.O. Lakhminiya P.S. Ballia, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Engineer in Chief Cum special Secretary, Public Health Engineering Department, Bihar, Patna.
3. The Superintending Engineer, Public Health Engineering Department Darbhanga Circle, Darbhanga.
4. The Executive Engineer, Public Health Division, Darbhanga.
5. The Assistant Engineer, Public Health Sub - Division, Benipur District- Darbhanga.
6. The Junior Engineer, Public Health Section, Biraul - 2, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Harsh Anuj, Advocate
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

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

Date : 07-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“For issuance of an appropriate writ(s), order(s) or direction(s) for quashing of the order dated 18.11.2021 issued vide memo No.2006 by which the respondent no.4 has communicated to the petitioner about his decision i.e. office order no.335/18.11.2021 by which respondent no.4 without considering the reply/representations of the petitioner dated 17.11.2021 in respect of show cause of respondent no.4 dated 16.11.2021 in whimsical and arbitrary manner debarred the petitioner’s firm (M/s Maa Bindhyavasini Construction) to

take part in future BID of the respondent department and further to direct them to make the payment of Rs.22,50,000/- for the work done in respect of SBD-01/2018-19.”

We are informed that the Arbitration Tribunal constituted under the provisions of the Bihar Public Works Contract Disputes Arbitration Tribunal Act, 2008 is not functional and operational.

In this view of the matter, we are inclined to accept the petitioner's request of approaching respondent no.3, namely, the Superintending Engineer, Public Health Engineering Department Darbhanga Circle, Darbhanga, inviting attention of his grievances with respect to the agreement executed in the year 2018.

Learned counsel for the State has no objection to the same.

We clarify that we have not expressed any opinion on merits. Also the issue of maintainability of the petition is left open.

Passing of the order shall not be construed as a precedent for the order is passed in the peculiar facts and circumstance of the instant case, more so, in view of the petitioner's previous request which are pending consideration with the authorities.

Petitioner alleges violation of principles of natural

justice in the termination of his contract and in fact he stands debarred from participating in the other works of the department.

It is under these circumstances that we have passed the order.

We clarify that the authority shall take a view independent of any observations made by us.

Such view has to be based on the merits binding the parties to the agreement.

The liberty reserved to the parties to take recourse to such measures should the need so arise.

Needless to add, any request received from the petitioner shall be considered and decided within a period of two months thereafter.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.03.2022
Transmission Date	NA