

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.890 of 2022

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M/s A.K. Das Associates Limited through its Director Sri Chandrakanta Mohanty, aged about 50 Years, (M), Son of Late Srikanta Mohanty, having Reg. Office at Plot No. H-1, Satya Nagar, Bhubaneswar -751007, District-Khurda, Obisha and Residing at Duplex No. 9, Mandakini Complex, Khandagiri, Khorda, Bhubaneswar, Odisha-751030

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Energy, Government of Bihar, Secretariat, Patna.
2. The Bihar State Power (Holding) Company Ltd., Ist Floor, Vidyut Bhawan, Jawahar Lal Nehru Marg, Patna through its Managing Director
3. The Bihar State Power Transmission Company Ltd., 4th Floor, Vidyut Bhawan, Bailey Road, Patna-80001 through its Managing Director
4. The Chief Engineer (Project-I), Bihar State Power Transmission Company Ltd., Vidyut Bhawan, Bailey Road, Patna-800021
5. M/s REW Contracts Pvt. Ltd., Plot No. 595, Section-1, Vaishali, Gaziabad-201010 (U.P.)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Yashraj Bardhan, Advocate
For the Respondent/s : Mr.Subhash Pd. Singh, GA 3

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 03-01-2023 Petitioner has prayed for the following relief (s) :-

“1. That the petitioner beseeches indulgence of this Hon'ble Court with a prayer for issuance of appropriate writ or writs in the nature of certiorari for setting aside the office order no. 119 as contained in Memo No. 1460, dt. 17.12.2021 issued by the Chief Engineer (Project - 1), Bihar State Power Transmission Company Ltd., Patna, whereby the petitioner in JV with M/S REW Contracts Pvt. Ltd. has been ordered to be debarred from participating in



future tender of BSPTCL till satisfactory completion of all works against NIT No. 46/PR/BSPTCL/2018, which order simultaneously communicates of termination of contract in case there was no assurance for supply of balance 05 numbers of 200 MVA Transformer within a week from the date of the order, which is quite arbitrary, callous, unreasonable and without consideration of the facts and circumstances of the case, and using the predominant position of being a government company to coerce the employee/contractor to abide by own terms, ignoring ground realities and the intervening circumstances in price rise due to COVID -19 and scuttling the whole process to get rid of and to oppress the petitioner with heavy civil consequence due to the impugned order, which is in most arbitrary and unreasonable manner, without giving any personal hearing in compliance of principles of natural justice and as a matter of fact, the said debarment order was passed only to deny the escalation price of 200 MVA transformers to petitioner JV as was being requested time and again and the impugned order of debarment is for an indefinite period, i.e., till satisfactory completion of work and this order has been issued unilaterally assigning lapses in execution of contract for which Respondent Corporation might have other remedies, yet, it resorted to this coercive and oppressive method becoming judge of its own cause and acted unilaterally, ignoring the concerns/issues raised by petitioner JV as well as passing the order without assigning reasons to deny the issues, and at the same time fastening the debarment order with termination notice, which is completely illegal, invalid, arbitrary and disproportionate violating Articles 14, 19 (1) (g) as well as 21 of the Constitution of India.”

Learned counsel for the respondents states that impugned order dated 17.12.2021 (Annexure14 Page-69) stands recalled vide office order No. 105 dated 30.12.2022, as such,



the present petition has become infructuous.

Statement accepted and taken on record.

Liberty reserved to the present petitioner to take recourse to such remedies as are otherwise available and permissible in law for pursuing the surviving grievances, should the need so arise.

Instant petition stands disposed of with liberty aforesaid.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

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