

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1543 of 2019

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Arun kumar Late Siya Ram Singh. Resident of Village and P.O. Bandeya, P.S. Bandeya Rukandi, District- Aurangabad - at present residing at Sharma Bhawan, Rajiv Nagar Road No. 8, P.S. Rajiv Nagar, Town and District- Patna.

... .. Petitioner/s

Versus

1. Bihar State Building Construction Corporation Ltd. and ors a Government of Bihar, Undertaking having its Registered office at Patna- 800001 (Bihar)- through its Managing Director.
2. Managing Director, Bihar State Building Construction Corporation Ltd., a Government of Bihar Undertaking, Patna- 800001 (Bihar).
3. Chief General Manager, Bihar State Building Construction Corporation Ltd., a Government of Bihar Undertaking, Patna- 800001 (Bihar).
4. General Manager, Bihar State Building Construction Corporation Ltd. a Government of Bihar, Undertaking, Patna- 800001 (Bihar).

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 2237 of 2019

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Arun kumar Late Siya Ram Singh, Resident of Village and P.O.- Bandeya, P.S. Bandeya Rukandi, District- Aurangabad- at present residing at Sharma Bhawan, Rajiv Nagar Road No. 8, P.S.- Rajiv Nagar, Town and District- Patna.

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Versus

1. Bihar State Building Construction Corporation Ltd. and ors a Government of Bihar Undertakng having its Registered Office at Patna- 800001 (Bihar)- through its Managing Director.
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4. General Manager, Bihar State Building Construction Corporation Ltd. a Government of Bihar Undertaking, Patna- 800001 (Bihar).

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 1543 of 2019)

For the Petitioner/s : Mr. Anshuman Singh, Advocate

For the Respondent/s : Mr. Tez Bahadur Singh, Sr. Advocate

: Mr. Brisketu Sharan Pandey, Advocate

(In Civil Writ Jurisdiction Case No. 2237 of 2019)



For the Petitioner/s : Mr. Mr. Anshuman Singh, Advocate
For the Respondent/s : Mr. Tez Bahadur Singh, Sr. Advocate
: Mr. Brisketu Sharan Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

12 27-06-2023 Heard learned counsel for the respective parties.

2. In the instant petition, petitioner of both the writ petition has prayed for the following reliefs:-

"(i) To issue a rule NISI in the nature of a writ of certiorari to quash and cancel the decision of the Tender Committee dated 4th January, 2019 in regard to the tender submitted by and on behalf of the petitioner by which the Members of the Tender Committee ordered forfeiture of the amount of security of Rs. 31,30,000/- (Rupees Thirty one Lacs thirty thousands only) which the petitioner had deposited as Earnest Money in terms of the e- Tender Clause 17 dated 22nd October, 2018.

(ii) To issue a writ of mandamus commanding the respondent to refund / repay the amount of earnest money deposited in form of Fixed Deposit dated 20.11.2018 of the Bank of India, Patel Nagar Branch, Patna, alongwith interest at Bank's rate on and from 5th January, 2019 till the date of refund.

(iii) To issue other appropriate writ/writs, order or orders, direction or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."



3. Short question for consideration in the present *lis* is whether respondents could withhold EMD amount of the petitioner in the manner known to the law or not?

4. Pursuant to NIT dated 22.10.2018, the petitioner participated in the bid process and he was successful bidder in two items at Sl. No. 19 and 16 respectively. CWJC No. 1543 of 2019 (Arun Kumar vs. Bihar State Building Construction Corporation Ltd. and Ors) is relating to item no. 19 and CWJC No. 2237 of 2019 (Arun Kumar vs. Bihar State Building Construction Corporation Ltd. and Ors) is relating to item no. 16.

5. The petitioner, has assailed the committee decision *vide* Annexure- P-4. In fact committee decision has not been communicated to the petitioner. We don't know how he got this proceedings drawn by the committee. Further, petitioner had submitted a representation for refund of EMD amount on 08.01.2019, thereafter, the concerned authority was bounden duty to pass orders either accepting or rejecting the petitioner's claim. Even to this day, there is inaction on the part of the concerned respondent in passing order on the petitioner's demand of refund of EMD amount. In the light of these facts and circumstances, the concerned respondent is hereby directed to pass a detailed speaking order as to why the petitioner is not entitled to



refund of EMD amount. Such decision shall be taken after giving due notice to the petitioner. Before passing final order insofar as withholding of any EMD amount. Concerned authority is hereby directed to take note of each of the contentions to be raised by the petitioner against the proposed show cause notice insofar as withholding of EMD amount. The above exercise shall be completed within a period of three months from the date of receipt of this order. The concerned authority is hereby directed to communicate the notice as well as final order to be passed under acknowledgment to the petitioner.

6. With the aforesaid observations, both the present writ petitions stand disposed off.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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