

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2862 of 2020

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Gangadhar Narayani Construction Pvt. Ltd. Proprietor Abhay Kumar Mishra, aged about 54 years, Male, son of Late Chandrama Mishra, resident of G1, Girjanandan Enclave, I A S Colony, Ramjaipal Path, Rupaspur, Bailey Road, P.S. Rupaspur, District Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Patna.
2. The Director, Department of Mines and Geology, Government of Bihar, Patna.
3. The District Magistrate, District Bhojpur, Bihar.
4. The Assistant Director, District Mining Office, Bhojpur (Ara), Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prabhat Ranjan, Advocate
For the Mines	:	Mr. Naresh Dixit, Advocate
		Mrs. Kalpana, Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha, GA-7
		Mr. Aday Shankar Pandey, AC to GA-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-02-2023

Heard learned counsel for the parties.

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

“(i) Quashing of the Letter No. 4366 dated 26.12.2019 (Annexure-3) issued by Assistant Director, District Mining Office, Bhojpur, whereby the petitioner has been directed to furnish and make payment of 10% of the caution amount as Security Deposit immediately, failing which the action of



forfeiture of the earnest money in terms of Clause 8 (ii) of the Tender document has been contemplated.

(ii) Quashing of the consequential and subsequent Letter No. 68 dated 11.01.2020 (Annexure 7) issued by the Assistant Director, District Mine Office, Bhojpur (Ara) whereby the direction to furnish the Security Deposit of 10% of the auction value has been reiterated filing which the forfeiture of the earnest money has been contemplated.

(iii) Declaration that Clause 8(ii) of the Tender documents (Annexure-2) has been rendered inapplicable on account of the introduction of the new policy of the Government as notified by the proceedings of the Cabinet dated 27.12.2019 to continue with the earlier settlement till 30.10.2020; and

(iv) Restraining the Respondents from taking any coercive action and giving effect to the directions contained in Letter No. 68 dated 11.01.2020 (Annexure 7) during the pendency of the present writ petition.”

Having given thoughtful consideration to the submissions made across the bar as also accounting for the documents i.e. Annexure-3, Page 43; Annexure-4, Page 45; Annexure-5, Page 48; Annexure-6, Page 49 and Annexure-8, Page 88, we are of the considered view that the issues, factual as also legal, can be best adjudicated by the final fact finding adjudicatory authority as provided under Chapter VI of the Bihar Contractors' Registration Rules, 2007.



As to whether the decision of the Cabinet informed vide communication dated 27.12.2019 (Annexure-5 Page 48), interdicted with the process of tender or not; as to whether the petitioner committed any default in adhering to the terms and conditions of NIT; as to whether the action of the respondent in blacklisting the petitioner was commensurate with the alleged inaction/defaults of the petitioner; and as to whether the principles of natural justice stood complied with prior to the passing of the impugned order or not, are all questions of facts which conveniently can be addressed by the parties and adjudicated by the final fact finding authority.

As such, present petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Rajiv/-sujit

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

