

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7309 of 2023

=====

Baba Debraha Enterprises 62G, Khesra No. 2469, Gandhi Nagar, Ashiyana, Patna, Bihar 800025 through its Authorized Signatory Rakesh Ranjan, aged about 44 years, Male, Son of Sri Bhupendra Prasad Yadav, at present residing at 62G, Khesra No. 2469, Gandhi Nagar, Ashiyana, District Patna, Bihar 800025. Permanent Resident of Jagjeevan Path, P.S. Madhepura, District-Madhepura, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Industry, Government of Bihar, Patna.
2. The Infrastructure Development Authority (A Govt. of Bihar Undertaking) 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna through its Managing Director.
3. The Managing Director, Infrastructure Development Authority (A Govt. of Bihar Undertaking) 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
4. The Director, (Programme Implementation), Infrastructure Development Authority (A Govt. of Bihar Undertaking) 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
5. The Superintending of Police, District- Hajipur, Vaishali, Bihar.
6. The Executive Engineer (Technical), Infrastructure Development Authority (A Govt. of Bihar Undertaking) 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.
7. The Officer-In-Charge, Industrial Area Police Station, District Hajipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan
For the Respondent/s	:	Mr. Gyan Prakash Ojha (GA-7)
	:	Ms. Sanghmitra Ghosh (AC to AG-7)

=====

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

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

8 01-08-2023

IA. No. 01 of 2023

For the reasons stated in the application and affidavit

I.A no. 01 of 2023 stands allowed.



CWJC No. 7309 of 2023

In the instant petition, the petitioner has prayed for following relief(s):-

(i) Quashing of the ex-parte Order dated 26.12.2022 contained in Memo No. 4854 by which without issuing a Show Cause Notice, a penalty of Rs. 5,00,000/- (being 1% of the Agreement Value) has been imposed as liquidated damages in terms of Clause 2 of the General Conditions of Contract under the Standard Bidding Document and directed to be adjusted from the future bill;

(ii) Quashing of the Notice to Show Cause contained in Letter No. 1188/Tech dated 10.02.2023 issued by the Executive Engineer (Technical) contemplating the action of imposition of further penalty and debarment;

(iii) Quashing of the Letter bearing Memo No. 1448 dated 08.02.2023 issued by the Executive Engineer (Technical) contemplating the action of imposition of further penalty and debarment;

(iv) Direction upon the Respondent Managing Director to consider and dispose off by a reasoned and speaking order the representation contained in Letter No. BDE/22-23/146 dated 17.03.2023 on an early basis; and

(v) Restraining the Respondents from taking any coercive action in connection with Agreement No. 28/SBD/2022-23 during the pendency of the present writ application and/or without the leave



of this Hon'ble Court.

2. Learned counsel for the petitioner submitted that the present matter is covered by earlier decision of this Court passed in CWJC No. 3241 of 2020 decided on 21.04.2023.

3. The aforementioned submission on behalf of the petitioner is not disputed by the learned counsel for the respondents.

4. Therefore, the present petition stands allowed in terms of the order passed in CWJC No. 3241 of 2020 decided on 21.04.2023 and the impugned order 26.12.2022, contained in Memo No. 4854, the Letter No. 1188/Tech dated 10.02.2023, issued by the Executive Engineer (Technical) and Letter Bearing Memo No. 1448 dated 08.02.2023, issued by the Executive Engineer (Technical) stands set aside. The concerned respondent is at liberty to take fresh steps in accordance with law after giving ample opportunity of hearing to the petitioner.

5. With the above observation, the present petition stands allowed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/ramesh

U			
---	--	--	--



