

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9652 of 2023

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M/s VAG Buildtech Ltd. and M/s Sai Engicon and Const. Pvt. Ltd. (JV) having its registered office at R.T. Bhawan, Punaichak, Patna-800023 represented through its Authorised Signatory, Sri Ritesh Ranjan Singh, Male, aged about 51 years, son of Late Manoranjan Singh, Resident of R.T. Bhawan, PNB Campus, Punaichak, Patna-800023.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Road Construction Department, Bihar, Patna.
2. The Chief Engineer, South, Road Construction Department, Bihar, Patna.
3. The Superintending Engineer, Central Circle, Road Construction Department, Bihar, Patna.
4. The Executive Engineer, Patna City, Road Division, Road Construction Department, Bihar, Patna.
5. The Assistant Engineer, Patna City, Road Division, Road Construction Department, Bihar, Patna.
6. The Junior Engineer, Patna City, Road Division, Road Construction Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prince Kumar Mishra, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 25-08-2023

Heard learned counsels for the parties.

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

"A. For issuance of the writ in the nature of Certiorari, quashing the order contained in Letter No. 19 dated 04.01.2023 issued by the Executive Engineer, Patna City,



Road Division, Road Construction Department, Bihar, Patna, whereby and whereunder, it has been communicated that in view of the recommendation made in the review meeting dated 02.01.2023 under the chairmanship of the Chief Engineer, South, Road Construction Department, Bihar, Patna, Petitioner is being debarred on account of slow progress of work in relation to "Widening and strengthening' (four laning) of Sadikpur-Pabhera-Masaurhi Road (SH-1) in km 0.00 to 16.30 for the year 2018-19" – without considering the causes for delay which is entirely attributable to respondent authorities like (i) delay in handing over of encroachment free land, (ii) approval of design & drawing clearance (iii) Change of Scope of work from K.M. 0+00 to 1+350 KM 4 Lane to 8 Lane with paved shoulder (iv) RCC Drain from Single Vent to Double Vent (v) Construction of New Major Bridge at Punpun (vi) Delay due to Covid-19 (vii) Delay due to Forest Clearance.

B. For issuance of the writ in the nature of mandamus, directing and commanding upon the respondent authorities to grant Extension of Time (hereinafter referred as "EOT") for completion of "Widening and strengthening' (four laning) of Sadikpur-Pabhera-Masaurhi road (SH-1) in km 0.00 to 16.30 for the year 2018-19" as work of project has enhanced several fold under Change of Scope (hereinafter referred as COS) without providing additional time for same.

C. For issuance of writ in the nature of Mandamus, directing and commanding upon the respondent authorities to clear the pending Bills of Petitioner, which has not been cleared till date and as a result, petitioner is facing severe hardship in execution of work.

D. For any other relief which this Hon'ble Court may deem fit and



appropriate.

E. Cost of litigation."

3. The petitioner was awarded contract for the purpose of widening and strengthening (four lane) of Sadikpur-Pavera-Masaurhi road (SH-1) from km 0+00 to 16+300 for the year 2018-19 in the State of Bihar on EPC Mode through agreement bearing No. 02/EPC/2018-19. The same was not executed within the time-limit stipulated. On such allegation the concerned respondent is stated to have issued show cause notice from time to time. Later show cause notice proposal for debarring him is dated 26.11.2022 for which the petitioner had submitted his reply on 29.11.2022. The concerned authority while debarring the petitioner on 04.01.2023 (Annexure-P/28) has failed to take note of petitioner's reply dated 29.11.2022 insofar as proposal for debarring the petitioner. Therefore, one has to draw inference that the petitioner's contention in the reply has not been taken into consideration. In other words, issuance of show cause notice and obtaining reply was only an empty formality. Accordingly, the petitioner has made out a case so as to interfere only in respect of debarring the petitioner with reference to Annexure-P/28 dated 04.01.2023. In respect of other reliefs, petitioner has remedy before the appropriate forum and it could be agitated by him. Accordingly, Annexure- P/28



dated 04.01.2023 stands set aside. The present writ petition is allowed in part, reserving liberty to the respondents to proceed in accordance with law from the defective stage. The concerned authority is hereby directed to take note of principle laid down by the Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan*** reported in (2010) 9 SCC 496, para 47 reads as under:

"47. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision



making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving



reasons for the decision is of the essence and is virtually a part of "Due Process".

4. The above exercise shall be completed within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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AFR/NAFR	
CAV DATE	N.A.
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Transmission Date	N.A.

