

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10359 of 2023

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Baba Debraha Enterprises 62G, Khesra No. 2469, Gandhi Nagar, Ashiyana, Patna, Bihar 800025 through its Authorized Signatory Nimikesh Kumar Nirala, aged about 32 years, Male, son of Nageshwar Prasad Jayswal, at present residing at 208, Opposite Metagalli, Post Lokanayaka Nagar, Near Ganpati Temple, P.s. Metagalli, District Mysore, Permanent resident of Village Khairwa, P.O. Bhishwa Bazar, P.s. Bela, District Sitamarhi, 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 Executive Engineer (Technical) Infrastructure Development Authority (A Govt. of Bihar Undertaking) 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
For the Respondent/IDA	:	Mr. Lalit Kishore, Sr. Advocate assisted by Mr. Vikash Kumar, Advocate
For State	:	Mr. P.N. Sharma, AC to AG

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

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

2 11-08-2023 In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) Quashing of the Notice to Show Cause dated 30.05.2023 as contained in Letter No. 3015/10 by which, the Executive Engineer



(Technical) has directed the petitioner to Show Cause within 7 days as to why for the reasons stated therein,

(a) The Agreement be not cancelled under Clause 14 of the Standard Bidding Document;

(b) The Risk and Cost Clause be not invoked under Clause 14(x)(b) of the Standard Bidding Document;

(c) The Registration of the petitioner be not blacklisted under Clause 10 (a) (ii) of the Infrastructure Development Authority Registration Rules; and

(d) The proceeding for forfeiture of Performance Guarantee and Additional Performance Guarantee be not initiated;

(ii) Quashing of the Office Order bearing Memo No. 3235 dated 10.06.2023 whereby following decision has been taken:

(a) Agreement has been cancelled under Clause 14 of the SBD.

(b) The risk and cost clause under Clause 14 of the SBD has been invoked.

(c) The Risk and Clause Cost in terms of Clause 14 (x) (b) of the SBD has been invoked.

(d) The petitioner has been blacklisted for a period of five years in terms of Clause 10 (a) (ii) of the IDA Registration Rule; and

(e) The Security Deposit, Performance Guarantee and Additional Performance Guarantee has been forfeited.

(iii) Quashing of the Consequential Notice Inviting Short Tender No. 31/Ten/IDA dated 01.07.2023 as contained in Memo No. 3833 by which on the basis of the Order Cancelling Agreement with the petitioner contained in Memo



No. 3235 dated 10.06.2023, the work of Construction of Plug and Play Prefabricated Shed at Bhagalpur, Phase 2 has been readvertised; and
(iv) Restraining the Respondents from giving effect to the office order dated 10.06.2023 as contained in Memo No. 3235 (Annexure 12) and the consequential Notice Inviting Re-tender dated 01.07.2023 as contained in Memo No. 3833 (Annexure 13) during the pendency of the present writ application and/or without the leave of this Hon'ble Court."

2. Learned counsels for the respective parties, on instruction, submitted that the present matter is covered by earlier decision of this Court dated 01.08.2023 passed in C.W.J.C. No. 7309 of 2023.

3. Accordingly, the impugned actions dated 30.05.2023 as contained in Letter No. 3015/10, Office order bearing Memo No 3235 dated 10.06.2023, Tender No. 31/Ten/IDA dated 01.07.2023 as contained in Memo No. 3833 stand set aside in terms of the order dated 01.08.2023 passed in C.W.J.C. No. 7309 of 2023.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

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