

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5209 of 2015

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M/s IVRCL Ltd. having its Bihar Regional Office at H.No. 14, Flat No. A1, Kamta Sadan Apartments, Kamta Singh Kam Lane, Near Oro Dental Clinic, East Boring Canal Road, Patna, Bihar-800001 through the Regional Head, Shri Rajesh Lal Singh, S/o Shri Bachchu Lal Singh.

... .. Petitioner/s

Versus

1. Bihar Urban Infrastructure Development Corporation Ltd. having its office at 303, Maurya Tower, Budha Marg, Patna – 800001 through the Managing Director.
2. The Managing Director, Bihar Urban Infrastructure Development Corporation Ltd. having its Office at 303, Mauray Tower, Budha Marg, Patna-800001
3. The Chief General Manager, Bihar Urban Infrastructure Development Corporation Ltd. having its Office at 303, Mauray Tower, Budha Marg, Patna-800001
4. The General Manager Works, Bihar Urban Infrastructure Development Corporation Ltd. having its Office at 303, Mauray Tower, Budha Marg, Patna-800001
5. The General Manager Tech, Bihar Urban Infrastructure Development Corporation Ltd. having its Office at 303, Mauray Tower, Budha Marg, Patna-800001
6. The Project Director, SIU-6, Bihar Urban Infrastructure Development Corporation Ltd. having its Office at 303, Mauray Tower, Budha Marg, Patna-800001

... .. Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s : Mr. Ajay Kumar Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

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

Date : 04-07-2023

None appears for the petitioner.



2. The present matter is pending consideration for the last 8 years, therefore, we are compelled to proceed with the matter.

3. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(I) For quashing of letter no. 2337 dated 18.10.2013 whereby and whereunder the Respondent No. 6 has debarred the petitioner- company from bidding in its future projects on the alleged ground of poor performance in execution of Muzaffarpur Water Supply project.

(II) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case.”

4. The petitioner was a contractor. He was a successful bidder insofar as execution of Muzaffarpur Water Supply Project. In not executing the work within the time limit stipulated, respondent - Bihar Urban Infrastructure Development Corporation Limited proceeded to take action. The impugned action dated 18.10.2013 reads as under:

BUIDCO/SIU-6/YO-11-10/04-(Part-III) – 2337

Date: 18/10/2013

To,
Managing Director,
M/s IVRCL Ltd.,
MIHIR, H.No. 8-2-350/5/A/24/18
Road No.-2, Banjara Hills, Hyderabad-500 034,
Andhra Pradesh, India.



Sub: Regarding Debarring for bidding in new projects of BUIDCO till further order and the final show-cause notice for poor performance in execution of Muzaffarpur Water Supply Project or terminate from the project as per clause 52.1 of agreement.

Ref.:- i) The agreement of Muzaffarpur Water Supply Project dated – 19.12.2011.

ii) Revised schedule submitted by IVRCL on 24.09.2012

iii) PD, letter no. 299 dated 05.12.2012, no. 312 dated 15.12.2012, no.-12 dated 11.02.2013, 51 dated, 16.04.2013, 98 dated 07.06.2013, 100 dated 12.06.2013, 147 dated 03.08.2013 and 161 dated 22.08.2013

Sir.

With reference to above subject and our agreement of Muzaffarpur Water Supply Project dated 19.12.2011 for providing the water supply to Muzaffarpur town within a period of 24 months (25.12.2013). Till date only 18 KMS of pipe line has been laid out of 224 KMS of distribution network and none of the Over Head Tank has been completed. The work of only one OHT (Zone-10) has reached upto bottom ring beam and in Zone-6 only pilling work has been completed, no work as of OHT has been started in any other Zone. The work of Rising main, Staff quarter, Pump house: Generator room, Chlorinator room has not been started till date.

In view of the above progress status, it is clear that you have not taken Interest in completion of the work/project. You have been reminded regarding expediting the work through letters, e-mails and by telephone.

Last notice to improve the performance was issued vide letter No. BUIDCO/SIU-6/Yo/11-10/04-161, dated 22.08.2013 but unfortunately M/s IVRCL Ltd has not shown seriousness and any Improvement has been made at site.

On the basis of the performance Indicated above IVRCL is debarred from bidding in future projects of BUIDCO:

We are forced to issue the final show-cause notice to you that why BUIDCO should not take the following actions)

1. Terminating the said agreement as per provisions made in the Clause 52.1 (iii) & (iv) of: Conditions of Contract Section III.
2. Forfeiting the securities against this agreement.

Yours sincerely

sd/-

Project Director,
SIU 6, BUIDCO. PATNA

5. We are not satisfied with debarring the petitioner from bidding in future projects of BUIDCO. Such indefinite period of debarring the contractor is deprecated by the Apex Court in the case of *M/s Chauhan Builders Raibareli vs. State of Uttar*



Pradesh & Ors. in SLP(C) No. 32840 of 2018 reported in *2022 LiveLaw (SC) 694*. In the light of various judicial pronouncements, we are of the view that contractor cannot be debarred for indefinite period. To that effect, we are modifying the order and communication insofar as petitioner-M/s. IVRCL Ltd. is debarred from bidding in future projects of Bihar on permanent basis to that of as on today petitioner is debarred.

6. The impugned action is dated 18.10.2013 and there is no interim order, therefore, we treat this impugned order dated 18.10.2013 insofar as debarring the petitioner-M/s. IVRCL Ltd. till date. In future projects of BUIDCO the petitioner is permitted to participate, if he is otherwise eligible. To this extent, the present petition is allowed in part.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

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

