

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20535 of 2016

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Sanjay Kumar S/o Late Aniudh Singh, resident of village - Lodipur, P.S.
Paraiya, District - Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Government of Bihar, Rural Works Department, Bisheshwaraiya Bhawan, Bailey Road, Panta.
2. The Engineer in Chief, Rural Works Department, Bisheshwaraiya Bhawan, Bailey Road, Patna
3. The Chef Engineer, Rural Works Department, Bisheshwaraiya Bhawan, Bailey Road, Patna
4. The Chief Engineer, Rural Works Department, Bisheshwaraiya Bhawan, Bailey Road, Patna
5. The Superintending Engineer, Rural Works Department, Works Division, Tekari, District - Gaya
6. The Executive Engineer, Rural Works Department, Works Division, Tekari, District - Gaya
7. The Project Manager, Rural Works Department, Works Division, Tekari, District - Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Ajay- GA-5

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

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

4 09-05-2023 None appears for the petitioner. The matter is of the
year 2016.

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

*“1. That this writ application is being file
in the nature of writ of certiorari for quashing
the order dated 22.6.2016 (so far the petitioner*



is concerned), issued under the signature of Engineer in Chief, Rural Works Department, Bihar; Patna vide letter no. 7567 by which and where under the petitioner is debarred from participation of the future tender after proclamation of defaulter due to non per formation of the works as per guide line given in the agreement and for issuance of any appropriate writ or writs, order or orders, direction or directions as your lordships may deem fit and proper.”

03. Annexure-10 dated 22.06.2016, reads as under:-

Annexure-10

बिहार सरकार
ग्रामीण कार्य विभाग
7567

पत्रांक-14/अप्र-1-75/16-
पटना/दिनांक-22-6-16

अभियंता प्रमुख।

सेवा में,

सभी मुख्य अभियंता, ग्रामीण कार्य विभाग
सभी अधीक्षण अभियंता, ग्रामीण कार्य विभाग, कार्य अंशक,
सभी कार्यपालक अभियंता, ग्रामीण कार्य विभाग, कार्य प्रबंधक,
सभी परियोजना प्रबंधक, ग्रामीण कार्य विभाग।

विषय-एकरनामा की शर्तों के उल्लंघन के आलोक में संबंधित संवेदकों को अगले निविदा में भाग लेने से वंचित किये जाने के संबंध में।

महोदय,

उपर्युक्त विषय के संबंध में मुख्य अभियंता 2, ग्रामीण कार्य विभाग, पटना के पत्रांक 2114 अ.प्र. दिनांक 15.06.16, मुख्य अभियंता 1, ग्रामीण कार्य विभाग, पटना के पत्रांक 2240 अ.प्र. दिनांक 15.06.16 द्वारा प्राप्त अनुशंसाओं के आलोक में समकित अनुलग्न सूची में उल्लेखित संवेदकों को एकरनामा में निहित प्रावधानों के तहत एकराजित समय के अंतर्गत कार्य पूर्ण नहीं किये जाने के कारण विभाग द्वारा डिफॉल्टर घोषित करते हुए अगली निविदा में भाग लेने से वंचित किया जाता है। यह तत्काल आदेश की शर्तों से प्रभावी होगा।

(अ.प्र.-उपस्थित। उपर्युक्त कुल 71 (इकहत्तर) पन्ने में संबंधित संवेदकों की सूची)।

विश्वासभाजन,
अभियंता प्रमुख

पत्रांक-14/अप्र-1-75/16-
महोदय-प्रधान सचिव/सचिव/अभियंता प्रमुख, पथ निर्माण विभाग, बिहार, पटना/जल संसाधन विभाग, बिहार, पटना/लोक स्वास्थ्य अभियंत्रण विभाग, बिहार, पटना/मदन निर्माण विभाग, बिहार, पटना/लघु जल संसाधन विभाग, बिहार, पटना/योजना एवं विकास विभाग, बिहार, पटना/नगर विकास विभाग, बिहार, पटना/प्रदेश निदेशक, बिहार राज्य पुल निर्माण निगम, पटना/बिहार पुलिस भवन निर्माण निगम, बिहार, पटना को अनुलग्नक के साथ, सूचनाार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

(अ.प्र.-उपस्थित। उपर्युक्त कुल 71 (इकहत्तर) पन्ने में संबंधित संवेदकों की सूची)।

अभियंता प्रमुख

पत्रांक-14/अप्र-1-75/16-
महोदय-सचिव, ग्रामीण कार्य विभाग, बिहार, पटना को सूचनाार्थ प्रेषित।

(अ.प्र.-उपस्थित। उपर्युक्त कुल 71 (इकहत्तर) पन्ने में संबंधित संवेदकों की सूची)।

अभियंता प्रमुख



04. The aforesaid Annexure-10 dated 22.06.2016 is supported by a large number of contractors' name and other material information. Annexure-10 dated 22.06.2016 itself reveals that there is total non-application of mind by the author of Annexure-10. The petitioner has been debarred from participating in future tender. Further, even though notices were issued, neither of the parties have apprised this Court as to whether petitioner has filed his reply to the show-cause notice or not and further, if reply was filed, in that event, there is no whisper in Annexure-10 dated 22.06.2016 as to what was the reply filed by the petitioner against the show-cause notice. If he has not filed, in that event, Annexure-10 should have revealed that against the notice there is no reply from the petitioner. Therefore, it is a total non-application of mind insofar as Annexure-10 dated 22.06.2016.

05. Accordingly, Annexure-10 dated 22.06.2016 stands set aside insofar as petitioner is concerned, reserving liberty to the concerned respondent to proceed in accordance with law after taking note of Apex Court's decision in the case of *UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Anr.*, reported in (2021) 2 SCC 551 and later decision in the case of *Isolators and Isolators Through Its Proprietor Mrs.*



***Sandhya Mishra vs. Madhya Pradesh Madhya Kshetra Vidyut
Vitran Co. Ltd. and Anr.,*** reported in ***2023 LiveLaw (SC) 330***
(Para-34) and principles laid down therein.

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

07. Accordingly, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
himanshu/-

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