

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1148 of 2023

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M/s Everest Human Resource Consultants (a partnership firm) Room No. 102, RZF-1/382, Mahavir Enclave (Part-1), Behind Bhagat Chandra Hospital, Palam Dabri Road, New Delhi-110045, through its authorized signatory, Dhananjay Kumar, Male, aged about 27 years, son of Shri Mundrika Singh, Resident of Village-Gamhari, P.S.-Baikunthpur, Gopalganj, Bihar-841420.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Urban Development Department, Bihar, Patna.
2. The Municipal Commissioner, Patna Municipal Corporation, Second Floor, Block-C, Maurya Lok Complex, Budhha Marg, Patna, Bihar-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Navendu Kumar
For the Respondent/s	:	Mr. Kinkar Kumar (Sc9)
For the State	:	Mr. Ashutosh Kumar Upadhyaya (AC to SC-9)
For the Municipal	:	Mr. Prasoon Sinha, Adv.

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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 : 27-06-2023

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

“(I) For quashing / setting aside the letter bearing no. 11401 dated 13.08.2022 issued under the signature of the Patna Municipal Commissioner by which performance security of the petitioner was seized and the petitioner was debarred from participating in any tender of the Patna Municipal Corporation for further three years on those grounds which



were never been alleged against the petitioner and on the baseless and extraneous consideration and also without giving personal hearing or adequate opportunity to the petitioner.

(ii) For quashing / setting aside the show cause notices bearing letters nos. 7446 dated 02.06.2022 and 10365 dated 22.07.2022 issued under the signature of the Patna Municipal Commissioner, by which, it was said without having any genuine documentary evidence that almost 50% of the manpower remained absent and taking it as a standard chart, why not recovery from the previous payments be done and also proposed to rescind the contract and debar from participation in any tender of the Patna Municipal Corporation for further 3 years.

(iii) For a direction to the concerned authorities to return Rs. 5 lakhs to the petitioner as the bank guarantee of Rs. 5 lakhs submitted as a performance security by the petitioner was encashed by the Municipal authorities after the expiry of the contract period.

(iv) For a direction to the concerned authorities to make payment of due bills against the services of the petitioner, which has been held without passing of any kind of order, without any rhyme and reason.

(v) For issuance of such other writ(s) / order(s) / direction(s) as your Lordships may deem fit and proper.”



2. The petitioner was a successful bidder with reference to NIT No. 12/CME/PMC/2018, dated 14.08.2018, in so far as providing workforce to the Patna Municipal Corporation – Respondent. In this regard, there was an agreement, which is stated to have been entered on 29.04.2019 and would be effective from 01.04.2019 to 31.03.2022. Even after lapse of tenure of the contract, Respondent-Patna Municipal Corporation continued the services of the petitioner in providing workforce beyond the tenure period. During the beyond tenure period, like May and June 2022, there were certain allegations against the petitioner in so far as the insufficiency in providing work force and thereafter a show-cause notice was issued dated 22.07.2022 for which the petitioner had submitted a reply on 01.08.2022, thereafter the concerned respondent proceeded to debar the petitioner for future bid for a period of three years from 13.08.2022.

4. The petitioner has assailed the debarment order dated 13.08.2022 and consequential relief sought in the present petition. We have noticed that there was no extended agreement from 31.03.2022 to any date. In other words, arrangements of providing workforce by the petitioner beyond 31.03.2022 was



under oral instructions of the officials of the Patna Municipal Corporation. If the petitioner has committed any irregularities or insufficiency in providing workforce to the Patna Municipal Corporation beyond 31.03.2022, the same cannot be taken note and debar the petitioner.

5. On the above short ground, the petitioner has made out a case so as to interfere with the debarment order dated 13.08.2022 and the same is set aside.

6. Accordingly, the writ petition is allowed in part.

7. Either of the parties are hereby directed to invoke the appropriate arbitration remedy in so far as the settlement of monetary benefits.

7. With the above observations, the writ petition stand disposed of.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/ashish

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	07.07.2023.
Transmission Date	

