

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17140 of 2018

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M/s Vivek Kumar S/o Nawal Kishore Prasad Singh, Proprietor Masers Bharti Construction, R/o Village Gachhi Tola Ward No.30, P.S.- Town Begusarai, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Engineer-in-Chief, IIIrd Rural Works Department, Bihar, Patna.
3. The Superintending Engineer, Rural Works Department, Samastipur.
4. The Executive Engineer, Rural Works Department, Works Division, Teghra Jharkhand.
5. The Executive Engineer, Rural Works Department, Work Division, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jai Prakash Singh, Advocate
For the Respondent/s	:	Mr.Kumar Alok -Sc7
		Mr.Satyeshwar Prasad, AC to SC7

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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 : 07-04-2023

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

“(I) For issuance of a writ in the nature of Certiorari for quashing the letter No.319 dated 5.5.18 in respect of notification No. (RWD/BEGUSARAI/PMGSY/02/ET/18-19) issued under the signature of Executive Engineer, Rural Works department Works Division, Begusarai as



contained in annexure-4 series to this writ petition by which published notice for re-tender for inviting the candidate for submission of application for eligible contractor, registered with RWD/RCD/CPWD/MES/Railways/other State/ Central Government department for following head PMGSY Works including maintenance for five years after construction of Road is as follows:- Block-Matihani and Birpur- name of work-Naula Baraipura to Saraunja Road Package No.BR-04R-014, Length Kilometer-4.05 and one year time of completion of work in District of Begusarai.

(II) For issuance of a writ in the nature of Mandamus directing and Commanding the respondent authority to cancel the earlier tender again published the tender notice dated 18.7.2018 in respect of notification No. RWD/Begusarai/PMGSY/02/ET/18-19 for construction of Road of Birpur Block from Naula Baraipura to Saraunja road in the district of Begusarai issued under PMGSY under the signature of Executive Engineer R.W.D. Works Division, Begusarai. The petitioner has tried to obtain this Letter dated 18.7.2018 but he could not obtain it. Therefore this letter has not been annexed in this writ petition.

(III) For issuance of a writ in the nature of Mandamus directing and commanding the respondents to stop the further proceeding in respect of aforesaid mentioned notification dated 18.7.2018 regarding construction of 4.05 Kilometer



Road from Naula Baraipura to Saraunja road under Birpur Block in the District of Begusarai.

(IV) For issuance of a writ in the nature of Mandamus directing and commanding the respondents to do not disturb/stop the construction of Road from Naula Pul to Kharmoli via Jokia Bandh Khakhra Gusha in Bhagwanpur block in the District of Begusarai which has been allotted work by the Executive Engineer R.W.D. Works division, Teghra.

(V) To grant of any other relief or reliefs for which the petitioner is entitled from the facts and circumstances of the case.”

2. Pursuant to the NIT dated 09.10.2017, petitioner was successful bidder and he has been provided work order on 11.12.2017 and so also agreement was entered into on 09.12.2017 while assigning time limit of 12 months, i.e., before 08.12.2018. He was required to execute the work relating to construction of Road Naulapul to Kharmoli via Jokia Bandh, Khakhra Gusha in Bhagwanpur Block, Length-4.105 km under NABARD Road for the year 2017-18 in the district of Begusarai.

3. During the course of execution of work on 05.05.2015 Executive Engineer, Rural Works Department, Work Division, Begusarai proceeded to re-tender the same work with the following description: Block-Matihani and Birpur, Name of Work- Naula Baraipura to Saraunja Road Package No. BR-04-014,



Length Kilometer-4.05 and it was with reference to certain administrative decision relating to bifurcation of work or Central Government Agency was required to execute certain works. The administrative difficulties in execution of work which was already allotted to the petitioner could not alter the work order dated 11.12.2017 and 09.12.2017 agreement. Even in the agreement there is no clause of reserving liberty in respect of re-tender in the event of any change of design/layout of the subject matter of work. Therefore, abruptly due to the administrative difficulties the respondents cannot re-advertise or re-tender of the subject of work which was allotted to the petitioner during the tenure of execution of the work is highly arbitrary and illegal, therefore, the petitioner has made out a *prima facie* case so as to interfere with the re-tender dated 05.05.2018 *vide* letter no. 319 issued by the Executive Engineer, Rural Works Department, Work Division, Begusarai stands set aside.

4. The concerned respondent is hereby directed to permit the petitioner to execute the work which was stated to have been re-called pursuant to the re-tender process dated 05.05.2018 and permit to execute the work which was allotted to him on 11.12.2017 within a period of eight of months from the date of



receipt of this order, if any, dispute arises in that event petitioner is permitted to approach the concerned respondent and resolve.

5. With the above observation the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.04.2023
Transmission Date	NA

