

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25257 of 2019

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Ajay Kumar son of Late Ganga Kumar resident of Flat No. 405, Kush Apartment, Ram Janki Nagar, Road No. 2, Hawaii Nagar, P.S.- Jagannathpur, District- Ranchi (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Engineer-in- Chief, Rural Works Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bhola Kumar, Advocate Mr. Akshansh Ankit, Advocate
For the Respondent/s	:	Mr. Kameshwar Prasad Gupta, GP-10 Mr. Virendra Kumar, AC to GP-10

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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)

3 14-03-2023 In the instant petition, petitioner has prayed for the following relief(s):-

“1. a) To quash Letter No. 3110 dated 01.11.2019 [Annexure P4] issued by the Respondent No. 2 whereby and whereunder all the Executive Engineers were directed to stop accepting bank guarantees issued by branches/banks outside the State of Bihar as the same is arbitrary, unreasonable, discriminatory and violative of provisions of Bihar Public Works Department [P.W.D.] Code.

b) For a direction upon the Respondent Authorities to allow the



Petitioner to submit Bank Guarantees issued by branches of scheduled banks located outside the State of Bihar as Earnest Money and Performance Guarantee before awarding tenders to the petitioner.

c) To Stay the operation of Letter No. 3110 dated 01.11.2019 [Annexure P4] during the pendency of the instant writ application.

d) To pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand.”

Learned counsel for the petitioner submitted that impugned action is contrary to 32.2 of Standard Bidding Document. It is submitted that by impugned action dated 01.11.2019 issued by the second respondent *vide* Annexure P4, all the Executive Engineers were directed to stop accepting Bank Guarantees issued by branches of scheduled banks located outside the State of Bihar. Such condition imposed by the second respondent would be contrary to 32.2 of Standard Bidding Document, the same is not disputed by learned counsel for the respondent-State.

In the light of these facts and circumstances, it is necessary to reproduce 32.2 of Standard Bidding Document which reads as under:-



“32.2. The performance security shall be either in the form of a Bank Guarantee or fixed deposit Receipts, in the name of the Employer, from a Scheduled commercial bank.”

Para 32.2 does not stipulate that Bank Guarantees are required to be executed within the State of Bihar. Therefore, imposing such condition by the second respondent *vide* letter no. 3110 dated 01.11.2019 is contrary to condition stipulated in the Standard Bidding Document.

Accordingly, petitioner has made out a case, hence, impugned action dated 01.11.2019 letter no. 3110 issued by the second respondent *vide* Annexure P4 is set aside, and writ petition stands allowed.

In the event of petitioner furnishing Bank Guarantee issued by branches of scheduled commercial banks, the concerned authority is hereby directed to accept the same.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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