

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.198 of 2019

In

Civil Writ Jurisdiction Case No.8710 of 2017

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1. The State of Bihar through the Principal Secretary, Urban Development and housing Department, Govt. of Bihar, Patna
 2. The Special Secretary Urban Development and housing Department, Govt. of Bihar, Patna
 3. The Executive Engineer District Urban Development Authority-II, Patna
 4. The Assistant Engineer District urban Development Authority-II, Patna
 5. The District Magistrate Patna
 6. The Block Development Officer Block- Fatuha, Patna

... .. Appellant/s

Versus

1. Arun Kumar S/o Late Yogendra Thakur Village-Raipura, P.O. and P.S.-Fatuha, District.-Patna
2. Rohit Kumar S/o Rajkishore Paswan Village-Muksudpur, P.O. and P.S.-Fatuha, District.-Patna
3. Md. Mohmood Alam S/o Late Ali Hassan Miyan Village.-Sammaspur, P.O.-Gdho, District.-Patna
4. Ashok Kumar Sundaram S/o Late Kamla Prasad Village-Govindpur, P.O. and P.S.-Fatuha, District.-Patna
5. Baliram Kumar S/o Kapileshwar Rai Village-Kripal Tola, P.O. and P.S.-Fatuha, District.-Patna
6. Simmi Singh W/o Vishal Gaura S.K., M.V. College, P.O. and P.S.-Fatuha, District.-Patna
7. Raj Kishore S/o Late Ramdev Singh South of S.K.M.V. College, P.O. and P.S.-Fatuha, District.-Patna
8. Nagar Panchayat, Fatuha through its Executive Officer, Fatuha, District.-Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shankar Kumar, Advocate

For the Respondent No.8 : Mr. Anil Kumar, Advocate

For the Pvt. Respondents : Mr. Ashok Kumar Choudhary, Sr. Advocate



Mr. Akshansh Ankit, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 23-07-2024 The appellants have filed the appeal assailing the judgment of the learned Single Judge, which set aside the cancellation of a work order and directed the work to be continued by the writ petitioners themselves.

2. The learned Counsel for the appellants-State submits that the tender issued by the Nagar Panchayat, Fatuha itself, was in violation of the Public Works Department Code, and the technical and financial bids were opened on the same day, clearly indicating nepotism. The notice inviting tender issued and the award of work being illegal, there was a cancellation made.

3. We have heard the learned Senior Counsel for the respondents also.

4. The only ground on which the cancellation was set aside was that there was no show-cause notice issued to the writ petitioners who were awarded a work. Even now, it is admitted that there was no show-cause notice issued. In fact, the respondents in the writ petition could have sought for liberty to



issue a show-cause notice, which they did not seek. The appeal itself was filed in the year 2019 and was not pursued properly.

5. It is submitted by the learned Senior Counsel for the respondents that now the work has been completed and the bills have been submitted.

6. However, it is asserted by the learned Counsel for the Nagar Panchayat that the work has not been commenced at all.

7. We are not entering into any of such controversies. If the party respondent has a claim that the work has been completed and the bills are to be paid, they would have to take appropriate legal remedies.

8. The local body who has granted the work could also resist such action taken by the respondents.

9. We notice that the appeal itself was filed with 264 days delay, which again points to the laxity of the Government in prosecuting the matter properly. Considering the lapse of time, if the work had not been commenced and completed, there is no question of the party respondent being permitted to commence the work now. Likewise, if the work is completed and payment is held up, the remedy is elsewhere.

10. The appeal is unnecessary and stands dismissed,



leaving open all contentions to be agitated in the action pursued
by the party respondent, if it is so pursued.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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