

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5367 of 2024

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M/s Rajdeep Construction through its Proprietor Sanoj Kumar, male, aged about 25 years, S/o Shri Gaya Yadav, Resident of Village and Post-Puna Kala, P.s.-Paraiya, District-Gaya, Pin-824209.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The Municipal Commissioner, Gaya Nagar Nigam, Gaya.
4. The Executive Engineer, Gaya Nagar Nigam, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath, Adv.
For the Respondent/s : Mr. Standing Counsel 28

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 16-05-2024 The order dated 04.04.2024 is being reproduced
hereinbelow;

“The petitioner is before the Court challenging his debarment. The debarment, as pointed out by Shri P.K.Verma, learned A.A.G.-3, is only a measure to ensure that the work is completed and till then the petitioner would not be considered for any further work. However, blacklisting is distinguished insofar as it being a penalty by itself. It is hence argued that there is no question of any period being specified as it is for the petitioner to complete the work and get out of the rigor of debarment imposed.

2. The petitioner points out that as per Annexure-7 order, his work itself has been rescinded. It is also



pointed out from the estimate produced along with Annexure-1, wherein at Sl. No. 6, the SOR 5.1.2 (Schedule of Rate), there is a provision for laying in position specific grade of reinforced cement concrete, excluding the cost of reinforcement provision of the 'base footing' and the 'above footing upto ground'. When the agreement was entered into, the base footing was erroneously omitted. The petitioner had pointed this out by way of representations at Annexure-P/3 and P/4, which have not been responded to.

3. The work awarded is beautification of Singra Sthan Pond Gaya. The specific contention of the petitioner is that without a 'base footing', there cannot be a construction made 'above footing upto ground'.

4. The respondents shall, hence, specifically answer the above contentions by way of a counter affidavit to be placed on record positively within a period of two weeks. 5. Post on 25.04.2024."

2. The learned Government Advocate on instruction submits that the order of debarment has been withdrawn. It is also submitted that the Government is ready to include the omitted portion, 'base footing', in the Bill of Quantity (BOQ).

3. The learned counsel for the petitioner then points out that the Annexure-R/F order impugned in the writ petition rescinded the contract and also forfeited the security amount.

4. In the teeth of the undertaking made by the



learned Government Advocate with respect to the omission of inclusion of 17.22 cubic meter in the BOQ and the decision now, to include the same, the order of rescindment also stands set aside. Obviously, the forfeiture of EMD also would stand set aside.

5. The learned Government Advocate only submits that the petitioner may be directed to finish the work within a time frame.

6. The petitioner and the respondents will sit across a table and decide on the time frame to be finalized and the omitted portion shall be included in the BOQ.

7. With the above observation, the writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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