

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6204 of 2024

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M/S Air Cooling System through its Proprietor Asgar Hayat, Male, aged about 44 years, son of Abul Hayat, Resident of Mohalla-Mahatwana, Phulwari Sharif, P.S.-Phulwari Sharif, District-Patna-801505.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Chief Engineer- cum -Special Secretary, Building Construction Department, Government of Bihar, Patna.
4. The Bihar Police Building Construction Corporation through its Chairman cum Managing Director, Kautilya Nagar, B.M.P.-5 Campus, Patna-800014.
5. The Chairman cum Managing Director, Bihar Police Building Construction Corporation, Kautilya Nagar, B.M.P.-5 Campus, Patna-800014.
6. The Chief Engineer, Bihar Police Building Construction Corporation, Kautilya Nagar, B.M.P.-5 Campus, Patna-800014.
7. The Superintending Engineer-2, Bihar Police Building Construction Corporation, Kautilya Nagar, B.M.P.-5 Campus, Patna-800014.
8. The Executive Engineer, Bihar Police Building Construction Corporation, Kautilya Nagar, B.M.P.-5 Campus, Patna-800014.
9. The Regional Manager, Indian Bank Main Branch, Bihar-Jharkhand Region, Patna, Bihar-800002.
10. The Branch Manager, Indian Bank Main Branch, Buddh Marg, Patna, Bihar-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rashid Izhar, Advocate
For the Respondent/s : Mr. Prasoon Sinha, Advocate
For Indian Bank : Mr. Rajan Ghosharve, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-10-2024

The only contention against Annexure-P-14 order of forfeiture of Earnest Money Deposit (for brevity 'EMD') is that the same was only on account of registration of an F.I.R. in Patna Airport Police Station for uploading fraudulent experience certificate.

2. The issue is squarely covered by the judgment in **CWJC No. 15901 of 2023 (Savitri Surendra Security Pvt. Ltd. v. The Bihar Police Building Construction Corporation & Ors.)** dated 11.09.2024 (Annexure-P-17).

3. We found from the Standard Bidding Document, specifically Clause 16.6, which enables forfeiture of EMD, that there is no power conferred on the authority to make such forfeiture; either on the finding of forgery or fraud employed nor for reason of registration of an F.I.R.

4. In such circumstance, we set aside Annexure-P-14 order dated 17.02.2024 to the extent of forfeiture of EMD is made and direct the respondent authority to ensure that the Bank Guarantee is returned without any encashment.



5. The writ petition is allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	30.10.2024
Transmission Date	

