

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19860 of 2013

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M/s Shree Shree Engineering And Financial Consultancy Pvt. Ltd. Through its Director and authorized signatory Ujjwal Prakash S/O Sri Baidya Nath Sharan Verma Resident Of Plot No. 72, Road No. 20, S.K. Nagar, P.S- Budha Colony, P.O- Kidwaipuri, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Urban Development Department, Govt. Of Bihar, Patna.
3. Bihar Urban Infrastructure Development Corporation Ltd., Through Its Managing Director, Having Its office at 303, 3rd Floor, Maurya Tower, Mauryalok Complex, Budh Marg, P.S. Kotwali, District Patna
4. The Managing Director, Bihar Urban Infrastructure Development Corporation Ltd., 303, 3rd Floor, Maurya Tower, Mauryalok Complex, Budh Marg, P.S. Kotwali, District Patna
5. The Project Director, Bihar Urban Infrastructure Development Corporation Ltd., 303, 3rd Floor, Maurya Tower, Mauryalok Complex, Budh Marg, P.S. Kotwali, District Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Rajesh Ranjan No. 1, Kanika, Advocates
For the Respondent Nos. 3 to 5	:	M/s Agreya Pratap, Advocate Arya Vashist, Advocates

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY
ORAL JUDGMENT
Date : 19-04-2024**

The petitioner has filed the present writ application for the following reliefs:

- i) An appropriate writ in the nature of certiorari for quashing the letter dated 17/12/12 as contained in annexure- 11 whereby and where under the respondent no.4 has rejected the representation of the petitioner



filed in the light of direction of this Hon'ble court against illegal termination of its agreement by letter dated 30/03/12(annexure-7), may be issued.

(ii) Consequent upon the quashing of the impugned communication an appropriate writ in the nature of Mandamus directing the respondents to make payment of bills of the petitioner company as per the terms and conditions of the agreement dated 10/11/11 as contained in Annexure-3 may be issued.

(iii) Any other writ/writs. order/orders or direction/directions as the facts and circumstances of the case may require and deemed fit by this Hon'ble Court may also be issued.

2. At the outset learned counsel for the petitioner contended that this is second round of litigation before this Court.

3. Earlier the petitioner had filed CWJC No. 9018 of 2012 which has been disposed of vide order dated 13.07.2012. For better appreciation, the order dated 13.07.2012 is quoted hereinbelow:

“Under the contract agreement, petitioner-firm was assigned the work of providing consultancy services for development of four parks to be



constructed in Patna.

Case of the petitioner is that it was provided necessary support for development of three parks, but respondents did not provide required back-up materials for the 4th park, due to which work could not commence with regard to 4th park. Hence, it was not possible for the petitioner to provide consultancy services for the same. However, instead of accepting laches on the part of the respondents themselves, they have cancelled agreement with the petitioner, vide Annexure-7 with the writ application, on certain alleged grounds.

Submission is that grounds are non est and the actual facts are that petitioner has always been diligent and sincere in performing its duty of providing consultancy services at all points of time for the work of laying down of said parks.

Learned counsel for the respondents submits that the grounds mentioned in Annexure-7 for cancellation of agreement of the petitioner are reasonable, which are being disputed by the petitioner.

Learned counsel for the petitioner submits that representation/objection has already been filed by the petitioner before the Project Director of Bihar Urban Infrastructure Development Corporation Ltd. and a copy thereof has been sent to the Managing Director of the Corporation also.

Since the order of cancellation of contract has been issued under the signature of the Project Director, this Court considers it appropriate that the matter should be considered by the Managing Director of the Corporation.

In the circumstances, this writ application is disposed of with a direction to the petitioner to approach the Managing Director of the Bihar Urban Infrastructure Development Corporation Limited with a copy of the



representation, annexed as Annexure-8, and also a fresh application directly addressed to him, who shall consider the matter and take an appropriate decision in accordance with law within two months from the date of appearance of the petitioner.”

4. It is contended on behalf of the petitioner that in compliance of the order dated 13.07.2012 (Annexure-9), the petitioner submitted representation dated 14.08.2012 along with the copy of the writ application before the respondent no. 4, the Managing Director, Bihar Urban Infrastructure Development Corporation, and requested him to reconsider the matter.

5. It is further contended that the respondent no. 4 without any application of mind and in most arbitrary manner rejected the representation submitted by the petitioner by order dated 17.12.2012 (Annexure-11), which is order impugned herein.

6. It is contended that a bare perusal of the order dated 17/12/12 as contained in Annexure-11, it is apparent that the respondent no.4 has completed mere formality by rejecting the representation of the petitioner by a cryptic order without considering the facts and circumstances of the case and the respondent no.4 has failed to consider the fact that when the



agreement was terminated with regard to work of three parks, earnest money deposited by the petitioner for all the four parks could not have been forfeited and also the respondent no.4 has not even discussed issues raised by the petitioner. There was no discussion on the issue of failure of respondent corporation to provide the estimates and sanctioned map which was the real cause for delay in completion of project and the project was to be completed by the respective contractors and the petitioner has to merely supervise their work.

4. Heard the learned counsel for the petitioner as well as the respondents.

5. The petitioner had earlier filed writ application bearing CWJC No. 16286 of 2011, which has been disposed of as stated above.

6. In compliance of the order dated 13.07.2012 of this Court, the petitioner has submitted his representation dated 14.8.2012 along with copy of the writ application before the respondent no. 4 but respondent no. 4 has rejected the representation submitted by the petitioner vide order dated 17.12.2012.

7. The respondent no. 4 has mentioned in his order dated 17.12.2012 that from the examination of the facts,



it is clear that the applicant was given sufficient time for the implementation of the project but even after that he failed to complete the works on time and comply with the provisions of the agreement and the Project Director is authorized by the undersigned to take necessary action in pursuance of the agreement, hence their action is the action of BUIDCO and there is no legal problem in it and, therefore, the action taken by BUIDCO to cancel and renotify the supervision and quality control consultant of three Parks against Shree Shree Engineering and Financial Consultant Pvt. Ltd. is justified.

8. The specific contention of the petitioner is that no opportunity of hearing has been given by the respondent no 4 prior to passing the order impugned and without any application of mind and in most arbitrary manner respondent no. 4 has rejected the representation of the petitioner.

9. In view of the facts and circumstances stated above, the order dated 17.12.2012 (Annexure-11) passed by the respondent no. 4 is hereby quashed and the petitioner is directed to make a fresh representation within 15 days from the date of disposal of this writ application before the respondent no. 4. Respondent no. 4, the Managing Director,



Bihar Urban Infrastructure Development Corporation Ltd. after hearing the petitioner shall pass appropriate order considering the entire material in accordance with law within a period of three months from the date of filing of the said representation.

12. With the aforesaid observations, this writ petition stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2024
Transmission Date	

