

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10040 of 2024

M/s Sri Ram Enterprises having Corporate Offices at Sri Ram Tower, 2nd Floor, MPD Road, Bhagalpur, Bihar 812002 through its authorized representative Mr. Sharad Kumar, aged about 54 years, Male, Son of Rajendra Prasad Bhagat, Resident of Bhagat Tola Road, Ward No. 06, Basantpur, Supaul, P.O.- Birpur, P.S.- Birpur, District- Supaul, Bihar-854340.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna - 800015
3. The Engineer in Chief, Flood Control and Drainage, Water Resources Department, Sichai Bhawan, Patna
4. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Muzaffarpur
5. The Chief Engineer, Planning and Monitoring, Sichai Bhawan, Patna.
6. The Internal Financial Advisor, Water Resources Department, Patna.
7. The Executive Engineer, Sikrahana Embankment Division, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Advocate Mr. Ayush Kumar, Advocate Mr. Kanishka Shankar, Advocate
For the Respondent/s	:	Mr. P. K. Shahi, Advocate General

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

(Per: HONOURABLE THE CHIEF JUSTICE)

2 03-07-2024 The petitioner is concerned with Annexure-P3 disqualification made against the petitioner for non-compliance of a condition in the contract; which was non-disclosure of a litigation initiated by the petitioner. The learned Senior Counsel for the petitioner pointed out that the litigation which the



petitioner had initiated in the High Court of Jharkhand with respect to a works contract, was not of a very serious nature. The petitioner had just claimed incentives for a work completed within time.

2. We heard the learned Advocate General for the respondents. Annexure-P2 is the Notice Inviting Tender which clearly indicates that any “information regarding any litigation current or during the last five years in which bidder is involved, the parties concerned and the dispute should be disclosed”.

3. According to the Advocate General, clause 4.8 indicates that even if the bidders meet the qualifying criteria, they are subject to be disqualified if they make misleading or false representation in the forms, statements and attachments submitted in proof of the qualification requirements. Admittedly there was a litigation pending, which is seen at Anneuxre-P4, which also ended in favor of the petitioner.

4. Whether the litigation is of a serious nature or whether it ended in favour of the petitioner is not the question which can be gone into by this Court in judicial review when there was a specific term for disclosure of litigation in the past five years. The petitioner had a duty and obligation to disclose the same and it was for the tendering authority to decide on



whether the litigation was of a nature, which would disqualify him. We have to notice that though no misleading or false representation is made, definitely there is suppression of material facts, which is squarely covered in *Kusha Duruka v. The State of Odisha; 2024 (1) PLJR 380 (SC)*.

5. The learned Senior Counsel submitted that the petitioner ought to have been given an opportunity to explain. When the admitted facts clearly show that there was suppression of facts, we do not think any opportunity can be given especially, in a competitive tendering process, when the tenderers have an obligation to comply with the requirements or suffer disqualification. The writ petition would stand dismissed *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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