

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1470 of 2019

In

Civil Writ Jurisdiction Case No.4196 of 2019

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1. The State of Bihar through the Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Government of Bihar, Patna.
 2. The Principal secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Government of Bihar, Patna.
 3. The Engineer-in Chief-Cum-Additional secretary-Cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
 4. The Chief Engineer, South Road Construction Department, Government of Bihar, Patna.
 5. The Executive Engineer, Road Division, Dehri-on-Sone, Patna.

... .. Appellant/s

Versus

1. M/s Surendra Prasad and Co. through its partner Anup Kumar aged about 53 years male son of late Surendera Prasad resident of village / Mohalla- Anandpura, P.O. Kadirganj, P.S. Nawada, District- Nawada.
2. DBS Construction Pvt. Ltd. through its Director, Sunil Kumar Singh, aged about 58 years, male, son of Sri Daroga Singh resident of Mohalla- Sambika Nagar, P.S. Dehri, District- Rohtas (Bihar).

... .. Respondent/s

with

Letters Patent Appeal No. 949 of 2019

In

Civil Writ Jurisdiction Case No.4196 of 2019

D.B.S. Construction Pvt. Ltd. through its Director, Sunil Kumar Singh, aged about 56 years, Male, Son of Sri Daroga Singh, resident of Mohalla- Sambika Nagar, P.S. Dehri, District- Rohtas, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Government of Bihar, Patna.
3. The Engineer in Chief Cum Additional Secretary cum Special Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Chief Engineer, South Road Construction Department, Govenrment of Bihar, Patna.



5. The Executive Engineer, Road Division, Dehri On Sone.
6. M/s. Surendra Prasad and Company through its Partner Anup Kumar, aged about 53 Years, Male, Son of Late Surenddra Prasad, resident of Village/Mohalla Anandpura, P.O. Kadirganj, P.S.- Nawada, District-Nawada.

... ... Respondent/s

Appearance :

(In Letters Patent Appeal No. 1470 of 2019)

For the Appellant/s	:	Mr. Sushil Kumar, GP-22
		Mr. Narendra Kumar Singh (AC to GP- 22)
For the Respondent/s	:	Mr.Prabhat Ranjan, Advocate
		Mr. Ansh Prasad, Advocate
		Mr. Alok Ranjan, Advocate

(In Letters Patent Appeal No. 949 of 2019)

For the Appellant/s	:	Mr.Prabhat Ranjan, Advocate
For the Respondent/s	:	Mr.Raj Ballabh Prasad Yadav (AAG-11)
		Mr. Ashok Kumar Dubey, AC to AAG-11
		Mr. Alok Ranjan, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-04-2024

The appellant-State and the successful bidder in the first NIT are concerned with the judgment of the learned Single Judge which directed a fresh NIT to be issued.

2. On brief facts; there was a NIT issued on 26.11.2018 as NIT No. 03/RCD/Dehri/2018-19. Last date for submission of the tender document was on 04.01.2019. The second respondent in the appeal and one another bidder participated in the tender process. On 09.01.2019 the registration of the second respondent was suspended vide order dated 09.01.2019 in which circumstance the Executive Engineer



kept in abeyance the technical bid evaluation and sought necessary instruction from the Superintending Engineer as to how to proceed with the tender process. The Superintending Engineer considering the importance of the work and the expediency required directed the Executive Engineer to invite a re-tender. A re-tender was made on 15.01.2019 under which the first respondent applied.

3. In the meanwhile, CWJC No. 1318 of 2019 filed by the second respondent against the suspension of registration order was allowed setting aside the same and reserving liberty to proceed afresh; by order dated 24.01.2019. The second respondent apprised the Tender Evaluation Committee about the setting aside of the order. The last date for submission of the second tender was extended to 22.02.2019 and later on 21.02.2019 the second tender stood cancelled since the first tender was revived and the second respondent was awarded the work.

4. The learned Single Judge in the writ petition filed by the first respondent directed fresh proceedings to be taken up by a third tender issued.

5. However, the learned Government Advocate who appears for the appellants submits that already the work has



been completed. It is also submitted by the learned counsel for the second respondent that the first respondent who is the writ-petitioner had withdrawn the EMD also.

6. In view of the totality of the facts stated above, we are of the opinion that the order of the learned Single Judge dated 01.08.2019 passed in CWJC No. 4196 of 2019 should be set aside only for the reason that the work already awarded has been completed.

7. Both the appeals would stand allowed.

8. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	20.04.2024
Transmission Date	

