

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14260 of 2023

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Rama Shankar Chaudhary, S/o Anand Chaudhary, R/o Village- Kamarthu, P.S.
Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Commissioner Rural Work Department,
Visheshwaraiya Bhawan, Bailey Road, Patna.
2. The Engineer in Chief, Rural Work Department, Bihar, Patna.
3. The Chief Engineer-3, Rural Work Department, Bihar, Patna.
4. The Executive Engineer, Rural Work Department, Works Division,
Muzaffarpur, East-1, Muzaffarpur.
5. Circle Officer, Bandra Block, Muzaffarpur.
6. Junior Engineer, Rural Work Department, Bandra Block, Muzaffarpur.
7. Sri Ramanand Thakur, Resident of Village- Parsara, P.S.- Tiar, District-
Muzaffarpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate
Ms. Sudha Chandra, Advocate
For the Respondent/s : Mr.Ajay (GA-5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-02-2024

The writ petition challenges the order of the Chief



Engineer-3, Patna, the 3rd Respondent who cancelled the work allotted to the petitioner for construction of a road from Kabristan to North Malanga under Bandra Block in the district of Muzaffarpur (Tender I.D. 80735). The impugned order also directed forfeiture of the earnest money apart from initiating a proceeding for blacklisting the petitioner.

2. The petitioner was awarded the contract as per the tender submitted by him since he was the lowest bidder. It is asserted by the learned counsel that the petitioner started soil work on the road after investing a huge amount of Rs. 4 lacs, the Inspection Report of which is said to be with the Circle Officer, Bandra and Junior Engineer, Bandra. The petitioner had also stored sand worth more than Rs. 2 lacs and stone chips of more than Rs. 10 lacs which were washed away in the heavy rainfall in the month of July, 2020 which resulted in considerable damage to the work already carried out.

3. The petitioner then approached the respondent authority with a representation produced as Annexure-P-3 seeking for an escalation of the bid amount. The petitioner also has a contention that he fell ill on 30.04.2021 as substantiated by medical prescription, Annexure-P-6. The petitioner has prayed for directing the respondent authorities to enter into an



agreement with the petitioner, enhancing the bid amount and extend the time limit for completion and in the meanwhile stay the fresh tender issued.

4. Learned counsel for the petitioner asserts that the work was started on the basis of a work order issued. It is also pointed out that the fresh tender issued was with an escalation of the estimated amount, which if granted to the petitioner, the work could have been carried out. The State would have been saved of the further expenditure for issuance of a notice inviting tender.

5. The learned Government Advocate, on the other hand, points out that there was no agreement executed despite the award on the basis of the lowest bid. There was no work order issued and the petitioner had refused to sign the agreement, in which circumstance the work was cancelled.

6. We cannot, but observe that the petitioner's contention regarding the commencement of work cannot at all be countenanced. According to the learned counsel, the petitioner commenced the work and collected material, which was washed away in the rainfall that occurred in July, 2020, as has been stated in the memorandum. The invoices produced as Annexure-P-1 to establish the purchase of materials are all dated



in the month of September, 2021. The petitioner has also not produced any work order, in which circumstance, the contention of the petitioner that he commenced the work and collected materials which got destructed and washed away in the rains, is a deliberate falsehood. The medical prescription speaks only of a fever and cold and nothing serious as to prevent the petitioner from carrying out the contract work. Even the rejoinder filed, speaks of heavy floods during the year 2020.

7. In the totality of the circumstances, as coming out from the records, we have to accept the contention of the learned Government Pleader that the writ petition is misconceived and there is an attempt to mislead this Court. The invoices produced to substantiate the purchase of materials, which got washed away in the floods, was far later to the period in which the rainfall occurred; even according to the petitioner. We find absolutely no reason to entertain the writ petition and we also are of the opinion that the writ petition is misconceived and the petitioner has attempted to mislead this Court.

8. The writ petition would stand dismissed with cost of Rs. 15,000/- (fifteen thousand) which shall be paid to the department within a period of one month or recovered by appropriate procedure for recovery of revenue due on land, in



which event, the petitioner would be liable to pay the expenses
for effecting such recovery in addition to the cost imposed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	13.02.2024
Transmission Date	

