
(2006) 08 PAT CK 0082
In the Patna High Court
Case No : CWJC No. 8211 of 2004

Dineshwar Bhagat Construction Pvt. Ltd.	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 24-08-2006

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2006) 4 PLJR 43

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Judgement

Navaniti Pd. Singh, J.—Heard learned counsel for the parties. The petitioner pursuant to his tender was awarded contract for repair of certain roads. The said is evidenced from Annexure-1 being letter No. 2235 dated 1.12.2003. His grievance is that without hearing him or without issuance of any notice to him the Chief Engineer, Birpur by his letter No. 4182 dated 14.12.2003 ordered for cancellation of his selection and directed the other tenderer, whose bid had been rejected, to be awarded the tender. This is what the petitioner has brought to this Court.

2. On the face of it, this Court finds that the action of the authorities is absolutely arbitrary and against the principles of natural justice. It cannot be countenanced on any count, it is well established now that even in matter of contract State is not relieved from its obligation under Article 14 of the Constitution. It has got to act fairly and in non-discriminatory manner. It is well settled that acting fairly will include acting in consonance with principles of natural justice. In the present case, there is no dispute that the petitioner was awarded contract. The question is not whether it was rightly granted or wrongly granted. The question is once the contract was awarded the petitioner had a right to be heard before he was deprived of this contract. The reason for which the contract has been cancelled may be correct or incorrect is not the question. The question is, the contract has been cancelled without hearing the petitioner. It

is not that the ends justify the means. Not only the contract was cancelled, but, the Chief Engineer took upon himself to direct that it should be awarded to a particular person, that is the second infirmity. If a person has been wrongly excluded from consideration then at best the Chief Engineer could have remitted the matter to the Tender Committee to take a fresh decision in the matter after noticing all the parties, but, he could not have usurped the powers and function of the Tender Committee. It is for this reason also that the action of the Respondents cannot be sustained.

3. It is, thus, held that the petitioner had been wrongly and unfairly dealt with. But the question remains as to what relief the petitioner can be granted. Admittedly, it was a contract for repair of small portion of road granted in 2004. It goes without saying that the work must have already been completed. In that view of the matter, this Court cannot issue futile writ. Even though the petitioner succeeds, he would not be entitled to any relief.

4. This writ application is, accordingly, disposed of. Let a copy of this order be sent to the State Government in the Department of Water Resources as also in the Department of Road Construction through their respective Secretary for information of Officers as to how they should conduct such matters.