

Data Tech (Through Alok Kumar Dubey) Vs. State of Jharkhand and Ors

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SooperKanoon Citation : sooperkanoon.com/62428

Court : Jharkhand

Decided On : Jul-22-2015

Appellant : Data Tech (Through Alok Kumar Dubey)

Respondent : State of Jharkhand and Ors

Advocate for Pet/Ap. : Sri. Sudhir Kumar

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(C) No. 6118 of 2011
DATA TECH(THROUGH ALOK KUMAR DUBEY), SON OF NARAD PRASAD DUBEY, R/O H/I -76, HARMU HOUSING COLONY, PO-HARMU, PS- ARGORA, DIST.- RANCHI, JHARKHANDPETITIONER VERSUS1 THE STATE OF JHARKHAND2 PRINCIPAL SECRETARY, DEPARTMENT OF IT, GOVT OF JHARKHAND, 3RD FLOOR, PROJECT BUILDING, PO- DHURWA, PS-HATIA, DIST.- RANCHI, JHARKHAND3 DEPUTY COMMISSIONER OF GODDA, LATEHAR, DEOGHAR, GUMLA, KODERMA, JAMTARA, GIRIDIH, EAST SINGHBHUM, PAKUR, CHATRA, GARHWA, DHANBAD, JHARKHANDRESPONDENTS ----- CORAM: HONBLE MR. JUSTICE PRASHANT KUMAR ----- For the Petitioner: Mr. Sudhir Kumar, Adv. For the Respondents: J.C. to A.G. ----- 14/22.07.2015 This writ application has been filed for the following reliefs:- That the instant application is for quashing of letter contained in Annexure-5, by which the Respondent No.2, the Principal Secretary, IT Deptt., Govt. of Jharkhand illegally and arbitrarily issued letter reducing the rate of payment from Rs.1750/- to Rs.1000/- per candidates, which was decided in the year 2008, after being

selected as lowest one in the tender. Since then petitioner working and regular payments are being made to the petitioner, but suddenly above letter was issued without any rhyme and reason which resulted in non-payment to the petitioner though the cheques/Drafts are ready for payment. The petitioner also prayed for issuance of direction/order commanding upon the respondent No.2 & 3 for issuance of following reliefs; (a) release of due payment at the sanctioned/approved rate against works done on behalf of Department of IT, Govt. of Jharkhand to be paid by the concerned Deputy Commissioners; (b) Allowing continuance of allotted IT work which has been withheld from July 2011; (c) declaring circulation of revised payment rate @ Rs.1000/- per trainee contrary to the level wise rates already approved by the concerned Deputy Commissioners as void and illegal; (d) staying the execution of newly floated Tender Published in 'Hindustan' Daily, dtd. 18.9.2011 and the date for submission of bid is 15.10.2011 for the same work before completion of awarded term of contract for three years.

2. It appears that the State Government took a decision for providing computer training to its officers and employees and in view of the above decision, the Deputy Commissioners of different districts issued a short tender notice inviting bids from different organizations for imparting training to the officers and employees of the State Government posted in different districts. It also appears that petitioner participated in the said tender in 17 districts and quoted rate per candidate for giving training to the officers and employees, which is as follow: Level-I Per man @1750/-, Level-II Per man @885/-, Level- III Per man@1264/-, Level-IV Per man @885/- (With Study Material and Lunch Packet) per trainee.

3. It appears that the Deputy Commissioners of various districts accepted the bid of the petitioner and issued work order. Thereafter, an agreement executed at the level of district in between the petitioner and the concerned Deputy Commissioner and/or person authorized by him. In the said agreement also, both the parties had agreed upon the rate stated herein above. Thereafter, petitioner started giving training to different officers and employees of the districts. It is stated the petitioner was receiving payment as per the rate quoted in the agreement. Suddenly, vide Annexure-5, respondent no.2, the Principal Secretary, Department of Information Technology, Govt. of Jharkhand, while allotting the fund for computer training, had

directed to the Deputy Commissioners to make payment to the trainer/petitioner at the rate of Rs.1000/- per person. Accordingly, on 15.06.2011, petitioner received a letter from the Deputy Collector (District Establishment), Gumla whereby the petitioner was informed that as per the direction of the Principal Secretary, Department of Information Technology, Govt. of Jharkhand, the rate for giving training per person has been reduced to Rs.1000/-, thus, the petitioner was directed to submit bill accordingly, so that payment can be made in favour of the petitioner. It then appears that after receiving the above letter, petitioner stopped giving training and present writ application filed.

4. During the pendency of this writ application, petitioner filed a supplementary affidavit, dated 16.4.2012 wherein at paragraph-13, he gave break-up regarding his dues in different districts, besides the earnest money deposited by the petitioner. It is submitted that as per the rate mentioned in the agreement, petitioner is entitled to receive aforesaid amount.

5. It further appears that during the pendency of this writ application, since the petitioner stopped working, the State Government floated another tender and on that basis, the work had been allotted to some body else.

6. It is submitted by Sri Sudhir Kumar, learned counsel for the petitioner that action of the respondents in reducing the rate unilaterally is arbitrary and against the mandate of Article 14 of the Constitution of India. Therefore, the aforesaid action cannot be sustained and the respondents are liable to pay the dues of the petitioner.

7. A counter affidavit filed in which the respondents admitted that the work order issued to the petitioner on the rates mentioned in the agreement and petitioner was being paid on that rates. However, the rate has been reduced as per the direction of the Principal Secretary, Department of Information Technology, Govt. of Jharkhand. In the said counter affidavit, it is nowhere mentioned as to why the said rate had been reduced by the Principal Secretary, Department of Information Technology.

8. It is also admitted position that before reducing the rate of the work contract, the Principal Secretary, Department of Information Technology, Govt. of Jharkhand and/or the Deputy Commissioner of different districts had not given any opportunity of hearing to the petitioner. Thus, I find that the order as contained in Annexure-5, by which the rate of the work contract had been reduced, is arbitrary and against the principles of natural justice. In that view of the matter, the impugned order cannot be sustained in this writ application.

9. Accordingly, I allow this writ application and quash the Annexure-5 series. I direct the respondents to pay the dues of the petitioner for the works done by him as per the rates mentioned in the agreement.

10. In the supplementary affidavit, the petitioner has challenged the subsequent tender. But during the course of argument, it has been brought to my notice that on the basis of the said tender, the work order already issued to some other person and that person has not been made a party in this writ application. Therefore, I am not inclined to interfere with the aforesaid subsequent tender. Accordingly, the aforesaid prayer made by the petitioner is rejected. (Prashant Kumar, J.) Sudhir