

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 2617/2023

M/s Rajendra and Company through its Proprietor Rajendar Bishnoi S/o Shri Kishnaram, aged about 45 years, R/o Bishnoiyo Ki Dhani, Khejarli Kalla, Tehsil Luni, District Jodhpur.

----Petitioner

Versus

1. State of Rajasthan through Principal Secretary, Department of Public Health and Engineering Department, Govt. of Rajasthan, Jaipur.
2. The Additional Chief Engineer, PHED Region I-II, Jodhpur.
3. The Superintending Engineer, District Circle, Public Health and Engineering Department, Jodhpur.
4. The Executive Engineer, District Division-II, Public Health and Engineering Department, Jodhpur.

----Respondents

For Petitioner(s) : Mr. Rishabh Tayal.

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

06/04/2023

Heard.

It is submitted by the counsel for the petitioner that the petitioner was awarded a contract on 02.02.2021 (Annex.1), wherein the petitioner was required to submit Additional Performance Security ('APS'), which was duly produced by the petitioner. Whereafter, it was required of the respondents to execute the agreement and provide the layout, which was never done. However, by order dated 31.08.2022 (Annex.6), the petitioner firm for the alleged non-performance was debarred for a

period of six months and the APS produced by the petitioner, was ordered to be forfeited.

The petitioner when represented indicating the non-execution of the agreement and lack of layout, the Executive Engineer on 14.09.2022 (Annex.11) indicated that due to human error the agreement couldn't be executed. However, despite the above fact situation, by order dated 01.12.2022 (Annex.14), the forfeiture of the APS produced by the petitioner has been upheld and the debarment of the petitioner has been reduced from six months to three months. Submissions have been made that once the agreement was not executed and layout was not given to the petitioner, there was no question of the petitioner failing to perform and, therefore, the action of the respondents is wholly unjustified.

In view of submissions made, issue notice. Issue notice of stay petition as well.

In the meanwhile and till further orders, effect and operation of the orders impugned dated 31.08.2022 (Annex.6) and 01.12.2022 (Annex.14) shall remain stayed.

(ARUN BHANSALI),J