

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4583 of 2010

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1. M/S Mas Engineering through its Proprietor Shri Apresh Chaudhary S/O Sri Dilip Choudhary having its Registered Office At 100, Kabi Nabin Sen Road, Dum Dum, Kolkata- 700028

.... Petitioner/s

Versus

1. The M.D.,Bihar Industrial Area Development Authority Udyog Bhavan, East Gandhi Maidan, Patna
2. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna
3. The Consultant, (T.E.) Bihar Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna
4. The Executive Engineer, Bihar Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Ojha, Advocate
For the Respondent/s : Mr. Lalit Kishore, Sr.Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 02-03-2015

Heard the parties.

2. The matter at issue is the claim of the petitioner for payment of contractual dues based on a contract dated 31.10.2007 (Annexure-1). The claims of the petitioner have been fully detailed in paragraph 1 of the writ petition.

3. In compliance of the order dated 18.03.2010, a counter affidavit on behalf of the respondents was filed way back on 28.04.2010 disputing and controverting the claims raised on behalf of the petitioner. A rejoinder affidavit has been filed on behalf of the petitioner asserting therein that that the petitioner-company has completed the works assigned to it.

4. After having heard the parties and on examination of the materials available on the records, this Court finds that the claim of the petitioner for payment of contractual dues is under

serious dispute in view of the averments made in the counter affidavit filed on behalf of the respondents.

5. It is well settled that with respect to disputed claim of contractual dues no relief can be granted in a proceeding under Article 226 of the Constitution of India and the parties may be relegated to the appropriate forum/court for getting the disputed question of facts decided and for grant of appropriate relief after producing the evidence/materials in support of such claim.

6. In above view of the matter, this Court is not inclined to accede to the prayers made on behalf of the petitioner. The writ petition is, accordingly, dismissed

7. However, the petitioner shall be at liberty to approach the appropriate forum/court for grant of appropriate relief on the basis of the evidence/materials produced by the parties. If such a claim is raised/a petition is filed by the petitioner before the appropriate forum/court, the same shall be considered and decided in accordance with law without being prejudiced or influenced by the present order. It is further clarified that if such a claim/petition brought by the petitioner is found to have become barred by limitation, then the appropriate forum/authority/court shall take into consideration that on a bona fide legal advice, the present writ petition was filed before this Court on 15.03.2010 and that remained pending before this Court till date and only thereafter appropriate order shall be passed.

(Birendra Prasad Verma, J)

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