

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18034 of 2009

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Bray Mohan Mishra S/O Late Sheonandan Mishra, R/O Vill.- Muraliachak, P.S.- Bisfi, Distt.- Madhubani, Presently Residing at Krishnapuri, Road No.3, Laxmi Chowk, P.S.- Brahmpura, Distt.- Muzaffarpur, at Present retired Assistant Engineer, Bikramganj, Works Sub Division, Rohtas At Sasaram

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Department of Rural Works, Government of Bihar, Bishwesaraiya Bhawan, Patna
3. The Chief Engineer Department of Rural Works, Government of Bihar, Bishwesaraiya Bhawan, Patna
4. The Superintending Engineer Department of Rural Works, Works Circle, Muzaffarpur
5. The Divisional Commissioner Tirhut Division, Muzaffarpur
6. The District Magistrate Muzaffarpur
7. The District Planning Officer Muzaffarpur
8. Mr. Binod Kumar Agrawal, The Executive Engineer Department of Rural Works, Works Division, Muzaffarpur
9. The Treasury Officer Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey
Mr. Panchu Ram

For the Respondent/s : Mr. Ranjan Kumar, AC to AAG-IV

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 09-02-2015

Heard the parties.

The matter at issue is non-imbursement of bills submitted by the petitioner for execution of works under the six schemes.

Learned counsel appearing on behalf of the petitioner submits that at the relevant time the petitioner was posted and working as Junior Engineer in the district of Muzaffarpur and he was entrusted to execute six schemes of the Government. According to him, the works were completed by the petitioner and in those schemes he submitted his bills, but payment has not been made till date though now, he has superannuated from service. It is also pointed out that the

petitioner filed a representation as contained in Annexure-7 before the District Magistrate, Muzaffarpur, whereafter some enquiry was conducted accepting the claim of the petitioner, yet payments have not been made to him.

Learned A.C. to AAG-4 appearing on behalf of the respondents has opposed the prayer made on behalf of the petitioner by referring to the averments made in the counter-affidavit. He submits that a criminal case was lodged against the petitioner and few other persons and that is why the payment has not been made to the petitioner. According to him, the petitioner has himself admitted before the competent authority that the entire works have not been completed. However, the learned State counsel has fairly submitted that there is no averment in the counter-affidavit with respect to the enquiry report as contained in Annexure-8, which was pursuant to the order passed by the respondent District Magistrate, Muzaffarpur.

In view of the claims raised on behalf of the petitioner in the present writ petition and in view of the fact that the final decision has not been taken by the respondent District Magistrate, Muzaffarpur pursuant to the enquiry report as contained in Annexure-8, this Court is of the opinion that the interest of justice shall be sub-served if the petitioner is granted liberty to file a comprehensive representation with all supporting documents including the enquiry report as contained in Annexure-8 before the respondent District Magistrate, Muzaffarpur, taking all the pleas, which have been taken in the present writ petition. It is ordered accordingly.

If such a comprehensive representation is filed on behalf of the petitioner within a period of one month from today with a certified copy of the present order, then the respondent District Magistrate, Muzaffarpur either himself or any other competent authority of the

respondent State shall be obliged to consider and decide the claims of the petitioner strictly in accordance with law by a reasoned and speaking order at an early date preferably within a period of three months from the date of filing of such representation by the petitioner.

If on consideration of the materials the competent authority comes to a conclusion that claims raised on behalf of the petitioner are admissible to him, then consequential order shall also be issued for grant of such admissible claims without any unnecessary further delay.

It is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner in the present writ petition in view of the fact that the pleadings are not complete on behalf of the parties, hence, this is left to be decided by the competent authority strictly in accordance with law.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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