

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11224 of 2010

=====

Jung Bahadur Roy S/O Late Jag Narayan Roy, R/O Mohalla New Punaichak, Near Jagdama Nirsingh Home, P.O. Punaichak, Patna-13.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Rural Work, Bihar, Patna.
2. The Engineer In Chief, Department of Rural Work, Bihar, Patna.
3. The Chief Engineer-1, Department of Rural Work, Bihar, Patna.
4. The Superintending Engineer, Department of Rural Work, Patna Anchal.
5. The Executive Engineer, Department of Rural Engineering Organisation, Work Division (R.W.D.), Masaurhi, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Devendra Kumar Singh, Advocate
Mr. Abhay Kumar, Advocate

For the Respondent/s : Mr. Sanjay Kumar, AC to GA 6

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 26-03-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 15.06.2010 (Annexure-11) passed by the respondent Executive Engineer (respondent no.5) whereby the claim raised on behalf of the petitioner in the light of the order dated 03.05.2010 passed in CWJC No.7658 of 2010 (Annexure-9) by a Bench of this Court has been rejected.

3. Learned counsel appearing on behalf of the petitioner submits that though on earlier occasion the matter was remitted back to the respondent no.5 to consider the claim of the petitioner for payment of enhanced/escalated price of the bitumen used by the petitioner for completion of works allotted to him, but the respondent no.5 without looking into the government resolution dated 18.03.2008 and letter dated 24.09.2009

(Annexures-3 and 7 respectively) has rejected his claim mechanically. In support of the above contention, he has drawn attention of this Court towards the provisions contained in resolution dated 18.03.2008 (Annexure-3) of the Department of Road Construction, Govt. of Bihar, Patna as also letter dated 24.09.2009 (Annexure-7) issued by the Secretary, Rural Works Department, Government of Bihar, Patna.

4. Learned AC to GA 6, appearing on behalf of the respondents, though has opposed the prayer made on behalf of the petitioner, but has not been able to satisfy the Court that while passing the impugned order dated 15.06.2010 (Annexure-11) the respondent Executive Engineer had taken into consideration the aforesaid letter dated 24.09.2009 (Annexure-7) read with resolution dated 18.03.2008 (Annexure-3).

5. After having heard the parties and on consideration of the materials available on the record, this Court is of the opinion that the matter requires re-consideration and a fresh decision, as apparently the respondent no.5 has mechanically rejected the claim of the petitioner by the impugned order dated 15.06.2010 (Annexure-11) though before passing the impugned order, he was obliged to take into consideration the letter dated 24.09.2009 (Annexure-7) read with the resolution dated 18.03.2008 (Annexure-3), but that has not been done by him.

6. For the reasons recorded above, the impugned order dated 15.06.2010 (Annexure-11) passed by the respondent no.5 is hereby quashed and set aside and the matter is remitted back to him for passing a fresh order for considering the claim of the petitioner in accordance with law. While passing the fresh order, he shall be obliged to look into the letter dated 24.09.2009

(Annexure-7) as also the resolution dated 18.03.2008 (Annexure-3) and only thereafter the claim of the petitioner shall be appropriately decided by him by a reasoned and speaking order. The entire exercise must be completed by him within a maximum period of three months from the date of receipt/production of a copy of this order.

7. The writ petition stands allowed to the extent indicated, with the observations and directions made above.

(Birendra Prasad Verma, J)

Tahir/-

U			
---	--	--	--