

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4046 of 2011

M/S Bharti Construction Through Its Proprietor Sri Ashok Kumar Singh
S/O Late Ramjivan Singh R/O Ram Jivan Nagar, P.S.-Begusarai, Distt.-
Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Of Minor Water Resources
Department, Patna
2. The Chief Engineer (North) Minor Irrigation Department, Muzaffarpur
3. Superintending Engineer, Minor Irrigation Circle, Darbhanga
4. The Executive Engineer, Minor Irrigation Division, Begusarai
5. Asstt. Engineer, Minor Irrigation Sub-Division, Begusarai

.... Respondent/s

with

Civil Writ Jurisdiction Case No.4118 of 2011

M/S Surya Traders, Sighaul Pokhar, Begusarai Through Its Proprietor Sri
Manish Kumar S/O Basudeo Pd. Das R/O Baiju Das Bhavan, Hemra Road,
Begusarai, Municipal Corporation, P.S.- Begusarai, Distt.- Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Of Minor Water Resource
Department, Patna
2. Chief Engineer (North) Minor Irrigation Department, Muzaffarpur
3. Superintending Engineer, Minor Irrigation Circle, Darbhanga
4. The Executive Engineer, Minor Irrigation Division, Begusarai
5. Asst. Engineer, Minor Irrigation Sub-Division, Begusarai
6. D.D.C. Begusarai

.... Respondent/s

with

Civil Writ Jurisdiction Case No.4249 of 2011

M/S Punam Construction through its proprietor Sri Umesh Pd. Singh son of
Late Ram Nandan Singh, Mohalla Viswanathnagar, Road No.5, Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary of Minor Water Resources
Department, Patna
2. Chief Engineer (North) Minor Irrigation Department, Muzaffarpur
3. Superintendent Engineer, Minor Irrigation Circle, Darbhanga
4. The Executive Engineer, Minor Irrigation Division, Begusarai
5. Asst. Engineer, Irrigation Sub Division, Begusarai

.... Respondent/s

Appearance:

(In CWJC No.4046 of 2011)

For the Petitioner/s : Mr. Ram Bilash Mahto
Mr. Manoj Kumar Singh
Brajesh Kumar Pandey
Mr. Dilip Kr. Roy
For the State : Mr. Pankaj Kumar Pankaj AC to SC 33

(In CWJC No.4118 of 2011)

For the Petitioner/s : Mr. Ram Bilash Mahto
Mr. Manoj Kumar Singh
Brajesh Kumar Pandey
Mr. Dilip Kr. Roy
For the State : Mr. Ranjan Kumar AC to AAG-IV

(In CWJC No.4249 of 2011)

For the Petitioner/s : Mr. Ram Bilash Mahto
Mr. Manoj Kumar Singh
Brajesh Kumar Pandey
Mr. Dilip Kr. Roy
For the Respondent/s : Mr. Parth Sharthi SC-10

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

8 31-07-2015 Heard Mr. Mahto in support of all the three writ applications and counsel for the State.

Diverse counter affidavits have been filed.

All the writ applications raise identical/similar issues inasmuch as the facts are also common. They have been heard together and are being disposed of by this common order.

The contention of the petitioners is that for sale of the scrap materials of the Minor Irrigation Department lying at Begusarai, an auction was held on 28.12.2010 after due advertisements wherein the petitioners herein were adjudged the highest bidders. It is further the case of the petitioners that the bid amount was deposited with the respondent(s) in the year 2010.



Subsequently, under the orders of the District Magistrate, the lifting of the scrap materials by the successful bidders was stopped. A vigilance enquiry was instituted since it came to the notice of the government that the scrap materials which were being auction sold for a paltry amount of Rs. Seven lakh and odd was/were worth more than one crore.

The contention of the petitioners is that this Court may direct the respondents to permit the petitioners to lift the scrap materials as per the bid and/or direct them to return the bid amount which the petitioner(s) deposited with the respondents along with the interest since the respondent(s) have arbitrarily retained the said amount without permitting them to lift the auctioned scraps.

Counsel for the State, on the basis of the diverse statements made in the counter affidavit, has stated that it was the mischievous endeavour of the retiring Executive Engineer of the Department to sell the government property at a very cheap rate in order to gain undue advantage/benefit. The respondents are, therefore, not agreeable for lifting of articles/scrap materials which were put on auction sale in a clandestine manner by the retiring Executive Engineer. In fact, a vigilance enquiry has been instituted and the matter is pending enquiry. Insofar as the alternate prayer of the petitioners is concerned, the counsel for the State, in the

facts and circumstances of the case, has agreed for refund of the bid amount deposited by the petitioners without prejudice to the pending investigation in which, it is submitted, the petitioners may also be hauled up for the acts committed by them in conniving with the Executive Engineer or the other officer(s).

In view of aforesaid, this Court finds no difficulty in directing the State respondents to refund the bid amount which each of the petitioners deposited pursuant to the bid process undertaken by them in which they are said to have been declared as the highest bidders.

This takes the Court to another aspect of the matter. The contention of Mr. Mahto is that the respondent(s) have arbitrarily retained the bid amount deposited by the petitioners for the scrap materials for several years. They must have deposited the amount in the bank and earned interest. In such circumstances, the petitioners are entitled to get the interest on the amount which they deposited with the respondent(s).

Weighing the submissions of the parties and considering the factual aspect of the matter, this Court directs the concerned respondent, particularly Executive Engineer, Minor Irrigation Department, Begusarai (respondent no.4) to refund the amount to the petitioner with simple interest @ 6.5% per annum until the

amount is refunded in favour of the petitioners. This Court further directs that calculation and refund of the amount payable to the petitioners shall be carried out within five weeks from the date of receipt/production of a copy of this order before respondent no.2 as well as respondent no.4. In case, the respondent(s) concerned default in refunding the amount as per the direction, each of the petitioners shall further be entitled to a cost in the sum of Rs. 10,000/- each. The amount of cost, if paid any to the petitioners, may be realized from the erring official(s)/officer(s).

The writ applications are disposed of with the aforesaid direction(s)/observation(s).

(Kishore Kumar Mandal, J)

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