

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17212 of 2011

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M/s Dev Construction, Opposite Aurangabad Town Police Station, Old G.T. Road,
P.S.-Town Police Station, District -Aurangabad through its Partner Sri Kishori
Singh son of Sri Devssharan Singh, resident of Old G.T. Road, P.S.-Town, District
Aurangabad

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Road Construction Department, Govt. Of Bihar,
Technical Secretariat, Bihar, Patna
3. The Engineer-in-Chief, Road Construction Department, Govt. Of Bihar,
Technical Secretariat, Bihar, Patna
4. The Chief Engineer, South Bihar Wing, Road Construction Department, Govt.
Of Bihar Technical Secretariat, Bihar, Patna
5. The Superintending Engineer, Magadh Road, Circle, Gaya
6. The Executive Engineer, Road Construction Department, Road Division No. 1,
Aurangabad

.... Respondents

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Appearance :

For the Petitioner : Mr. Raj Kishore Prasad, Advocate

For the Respondents: Mr. Sanjay Kr No.1, SC12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-10-2015

The present writ petition has been filed for quashing the
letter no. 1602 dated 03.09.2011 (as contained in Annexure-1) passed
by the Executive Engineer (Respondent No. 6) by which the petitioner
has been directed to deposit an amount of Rs. 49.55 lacs on account of
139.414 MT Bitumen received in excess by the petitioner in course of
a contract work undertaken by the petitioner in the year 2002-03, as
well as for not returning 935 empty drums of Bitumen used during the
said period.

2. Without entering into the details and merits of the matter, learned counsel for the petitioner makes a short submission to the effect that the impugned order dated 03.09.2011 has been passed without affording proper opportunity and without supplying necessary documents before raising the demand. It is stated that upon receipt of the impugned order, the petitioner by letter dated 15.09.2011 sought a number of documents as enumerated in paragraphs 5 and 6 thereof to enable it to deny its liability.

3. Learned counsel for the respondents is unable to show that such documents were made available to the petitioner before passing of the impugned order.

4. Having regard to the stand of the parties, this writ petition is disposed of, setting aside the impugned order dated 03.09.2011 (Annexure-1) and granting liberty to the respondents to pass a fresh order in accordance with law after supply of the documents enumerated in paragraphs 5 and 6 of the petitioner's letter dated 15.09.2011.

(Vikash Jain, J)

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