

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11516 of 2011

=====

Pankaj Kumar Singh S/O Ramdeo Singh At &P.O-Buhat, P.S.-
Barauni,Tola Khemkaranpur, District Begusaria, Bihar.

.... Petitioner/s

Versus

1. The Union Of India Through The General Manager, East Central Railway , Hajipur, Bihar.
2. The Senior Divisional Engineer(Co-Ord), East Central Railway, Sonpur, Bihar.
3. The Divisional Railway Manager, (Engg) 3, East Central Railway, Sonpur, Bihar.
4. The Assistant Divisional Engineer, (South), East Central Railway, Muzaffarpur, Bihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. P.K. Verma, Sr. Adv.
Mr. Mankeshwar Tiwari, Adv.

For the Railways : Mr. D.K. Sinha, Sr. Adv.
Mr. Sunil Kumar Ravi, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

8 26-11-2015 After some arguments, learned counsel for the

petitioner as with regard to the following prayer made in this

application:-

“1(A) For quashing of order contained in letter no.
W/362/MPF/Comm. Center/W-1/292, dt.
28.02.2011 – 02.03.2011 whereby the respondent
no.3 in a most arbitrary and malafide manner has
terminated the award of work at MPF-Provision of
Community Center for Staff under Acceptance
letter no. W/362/MPF/Community Hall/ TC, dt.
15.11.2009 with retrospective effect i.e. w.e.f.
4.5.2010 on the ground that the petitioner had
failed to apply for further extension of period of
completion on valid and responsible grounds

acceptable to the Railways in time.

- B. *Further for direction to the respondent authorities to allow the petitioner to complete the work after grant of time extension as the building map and site of work was neither prepared nor approved by the Respondent Railways even up to the date of completion and expiry of the contract period i.e. 4.5.2010 and it was only after more than 10 months that the same was intimated. Even then the petitioner repeatedly approached the authorities for extension of time but the proper form of extension of time was not made available to the petitioner in spite of repeated requests.*
- C. *Further for the direction to the respondent not to act arbitrarily and create third party right in light of tender notice no. 04 Sonapur 2011-12 dated 27.6.11 issued in Daily News Paper and not to take any coercive action against the petitioner because failure in time extension was not due the fault of the petitioner and he is always ready to apply for extension for the same and to complete the work.”*

seeks permission to withdraw this application in order to enable the petitioner to take recourse in view of the observation made in LPA No. 1411 of 2009 (The Union of India & Ors. Vs. M/s Jai Maa Shardey Construction) disposed of on 19.1.2011.

This application is, accordingly, permitted to be withdrawn but, at the same time, it is made clear that the interim order passed on 10.8.2011 to the following effect:-

- “6. *During the pendency of this writ petition, operation of the impugned order dated 28.02.2011/02.03.2011 (Annexure 1) of the Divisional Railway Manager-*

(Engg.) III, East Central Railway, Sonpur, Bihar (respondent no.3) as well as the proceeding with respect to re-tender as per notice dated 27.06.2011 (Annexure 1/A), so far item no. 12 relating to Community Centre, Muzaffarpur shall remain stayed.”

now stands vacated.

This Court hopes and believes that if the petitioner approaches the authorities of the Railway and makes a request for referring his case for arbitration in terms of the judgment in the case of M/s Jai Maa Shardey Construction (supra), an appropriate decision shall be taken expeditiously preferably within a period of six months from the date of filing of application by the petitioner.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--