

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16184 of 2010

=====

M/S Harihar Singh Construction Pvt. Ltd., through its Managing Director Sri Harihar Singh S/O Late Jang Bahadur Singh having Office at New Nagra Toli, Ranchi At P.S.- Lalpur, P.O.- G.P.O., Ranchi, Distt.- Ranchi, Jharkhand

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources (Irrigation Department), Government of Bihar, Patna
2. The Principal Secretary, Water Resources (Irrigation Department), Government of Bihar, Patna
3. The Chief Engineer, Water Resources Development Department, Government of Bihar, Patna
4. The Superintending Engineer, Water Resources Development Department, Government of Bihar, Patna
5. The Executive Engineer, Punpun Flood Protection Division, Patna City having Office at Karbigahia, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anand K.Ojha

For the Respondent/s : Mr. Anjani Kumar, AAG-6

Mr. Sanjay Kumar, AC to AAG-6

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 07-04-2015

Heard the parties.

This writ petition was earlier heard and finally disposed of by order dated 27.09.2010 by a Bench of this Court [Coram: Ramesh Kumar Datta,J]. The operative part of the order dated 27.09.2010 is reproduced herein below:

“The writ application is, accordingly, disposed of with a direction to the respondent Nos. 3 to 5 to ensure that action is taken in accordance with the recommendations and directions as contained in Annexures 2 to 4 to the writ application. Let the same be done within a period of three months from the date of receipt/ production of a copy of this order”.

The State of Bihar and its functionaries, being aggrieved by the aforesaid order dated 27.09.2010, preferred L.P.A. No. 1009 of 2011 questioning the correctness of the order passed by the learned



writ court mainly on the ground that the appellants therein i.e. the State of Bihar and its functionaries had no opportunity to file counter-affidavit before the learned single Judge. In above view of the matter, learned counsel appearing on behalf of the writ petitioner also conceded that the matter may be remanded to the learned Single Judge. Aforesaid L.P.A. No. 1009 of 2011 was finally allowed by the order dated 04.01.2013 by a Division Bench [Coram: R.M.Doshit, C.J., as Her Lordship then was, and Ahsanuddin Amanullah,J]. Before the Division Bench the learned State counsel had given undertaking that counter affidavit shall be filed within a period of three weeks from the date of the order. Relevant part of the order dated 04.01.2013 passed in L.P.A. No. 1009 of 2011 is reproduced herein below:

“In above view of the matter, the Appeal is allowed.

The impugned order dated 27th September 2010 is set aside. C.W.J.C. No. 16184 of 2010 is revived and is remanded to the learned single Judge for hearing and decision afresh.

Mr. Kaushal Kumar Jha agrees that the State Government will file counter affidavit within three weeks from today.”

In view of the order passed by the L.P.A. Court, the present writ petition was revived and the matter is pending before this Court for more than two years. Despite undertaking given by the learned State Counsel before the L.P.A. Court that counter-affidavit shall be filed within a period of three weeks from that date, no counter-affidavit has been filed till date. This matter was taken up yesterday (06.04.2015) and on the request of the learned State counsel the matter was simply passed over enabling him to comply with the aforesaid order dated 04.01.2013. However, even today counter-affidavit has not been filed on behalf of the respondents herein.

In above view of the matter, this Court is left with no

option, but to dispose of the writ petition in the same terms, which was indicated in the order dated 27.09.2010, relevant portion of which has already been reproduced above.

In the result, the writ petition stands finally disposed of in the terms of the order dated 27.09.2010 passed by a Bench of this Court earlier. The respondents shall be obliged to carry out the aforesaid order within a period of three months from today. However, in the peculiar facts of the case, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

BTiwary/-

U			
---	--	--	--