

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1266 of 2015

=====

M/s Magadh Manisha Construction Private Ltd., through its Managing Director,
Ravnindra Prasad Singh, son of late Bhola Singh, resident of LIG 299, Hanuman
Nagar, P.S. Patrakar Nagar, Town and Dist. Patna.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Company Affairs
Department, Government of India, New Delhi.
2. The C.M.D., National Projects Construction Corporation Limited, Raja House,
30-31, Neharu Palace, New Delhi, 110019.
3. The Zonal Manager, National Projects Construction Corporation Limited, 15
IAS Colony, Kidwaipuri, Patna-01.
4. The Office-in-Charge, National Projects Construction Corporation Limited, 15
IAS Colony, Kidwaipuri, Patna-01.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Krishna Kumar, Adv.

For the Resp. 2 to 4 : Mr. Arun Kumar Arun, Adv.

Mr. Shailendra Kumar, Adv.

For the Union of India : M/s Kanak Verma, C.G.C.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 27-01-2015

Heard learned counsel for the parties as with regard to
the following prayer made in this writ application:-

- "1. ----- for directing and commanding the respondents
to make payment of Rs. 5,70,000/- (Five Lacs Seventy
Thousand) with interest as maintenance of Parsa to
Sampatchak Road, which has already been done, for
which photo and C.D. with regarding to the aforesaid
maintenance work was deposited in the concerned
office of the respondent authority but the same is not
paid to the petitioner."

Learned counsel for the petitioner submits that even
when the petitioner has completed the work and is entitled to take

payment of Rs. 5,70,000/-, the same has not been paid to him till day.

Learned counsel for the respondents, on the other hand, having invited attention of this Court to the reply to the legal notice sent by the petitioner dated 25.9.2014 (Annexure-1), has submitted that the petitioner has neither completed the contract to the satisfaction of the authorities nor has even carried out the obligation under the agreement for maintenance for a period of five years. To that extent, he has invited attention of this Court to paragraph nos. 2, 3 & 4 of the legal notice, which reads as follows:-

- "2. That it pertinent to mention here that my client has instructed to your client vide letter no. BZO/PMGSY/976 dated 29/30-10-2013 and letter no. 1197/PMGSY/976/Patna/337 dated 30-06-2014 to complete the routine maintenance work for 5 years but your client did not carry out the routine maintenance work as per terms of the contract till the date.
3. That, from above, it is quite clear that you client (agency) failed to perform the terms of the contract signed between NPCC Ltd (my client) & M/s Magadh Manisha Construction Pvt. Ltd. (your client) with regard to maintenance of the road for 5 years despite several reminders and as such your client violated the terms of the contract knowingly & deliberately.
4. That as such the claim/claims made by the agency (your client) through the legal notice under reply is/are false and fabricated. The agency (your client) Knowingly, deliberately and intentionally suppressed the facts in this matter as the agency (your client) did not carried the maintenance work of the road for 5

years and thus violated the terms of the contract."

In the considered opinion of this Court, it is clear that the claim being made by the petitioner for payment in this writ application is not an admitted payment. Who was, whether the petitioner or the authorities of the National Projects Construction Corporation Limited (NPCC), are at fault cannot be adjudicated in a writ proceeding. The agreement has its own ways and, therefore, if the dispute has arisen between the petitioner and the respondent NPCC, the petitioner will have to invoke either the remedy of arbitration as per the terms and conditions of the agreement or in its absence by a civil suit where both the parties will have an opportunity to lead evidence in support of their respective claims.

This writ application, in any view of the matter, is wholly misconceived and ill advised. It is, accordingly, dismissed.

Nothing said in this order however shall come in the way of the petitioner in seeking remedy of arbitration or filing a civil suit.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--