

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8325 of 2011

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M/S Om Enterprises through its Proprietor Sri Bhagwatilal son of Mohan Lal of
Mohalla-Sikandarpur, P.S-Town District-Muzaffarpur (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate-cum-Chairman, District-Literacy Committee, Muzaffarpur.
3. District Mass Education Officer-cum-Secretary, District Literacy Committee, Muzaffarpur.
4. Deputy Development Commissioner cum Vice-Chairman, District Literacy Committee, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate.

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-09-2015

The present writ petition has been filed for quashing the part of the letter no. 36 dated 6.5.2008 issued by Respondent No. 3 whereby 30% of Rs. 2,22,792/- has been deducted from petitioner's bill to the tune of Rs. 66,838/- and for a direction to the respondents to pay the said amount.

2. Pursuant to a tender notice published on 7.3.2005, the petitioner was awarded the contract for supply of Plastic Coated Maps and accordingly supplied 30730 pieces of Maps to the different Block Literacy Committee.

3. However, against the bill raised for a total amount of Rs. 2,22,792/- towards such supply, a payment of Rs. 1,55,954/- only has been made after deducting 30% of the

bill on the ground that the maps were of inferior quality as compared with the sample which had been given by the petitioner.

4. Learned counsel for the petitioner submits that such deduction is wholly unauthorized and has been made only to circumvent the earlier order of this Court in C.W.J.C. No. 3666 of 2007.

5. None appears on behalf of the respondents when the matter is called.

6. Having heard learned counsel for the petitioner and on consideration of the materials on record, this Court is of the view that the writ petition must succeed.

7. A perusal of the said order in C.W.J.C. No. 3666 of 2007 discloses that there was a clear-cut direction to the respondent no. 2 to make payment to the petitioner, having found that the denial of payment was arbitrary as the supply was made by the petitioner which had duly been accepted by the respondents and the contract was never repudiated. The respondents have taken a completely new stand for denying a claim for part of the payment to the petitioner from the stand taken in their counter affidavit filed in the earlier writ petition in C.W.J.C. No. 3666 of 2007. The respondents had then expressed difficulty in getting allotment of funds from the Central Government for making payment as the relevant programme

sponsored by the Central Government had itself been stopped whereas now an entirely new reason has been assigned to somehow withhold a part of the payment to the petitioner, and that too, without any prior show cause notice for such proposed action.

8. In the above circumstances, the letter No. 36 dated 6.5.2008 issued by the Secretary, District Literacy Committee, Muzaffarpur, to the extent that it directs the deduction of 30% of the petitioner's bill, is hereby set aside. The Respondent No. 2 is directed to make payment of the amount in question, namely Rs. 66,838/-, to the petitioner without undue delay and in any event, within a period of three months from the date of receipt/production of a copy of this order.

9. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

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