

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21362 of 2014

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1. M/s Raas Homes Pvt. Ltd. Basement, Parwati Palace, Sidhartha Nagar, Jagdeo Path, Bailey Road, Patna-14, represented by Mr. Sachidanand, S/o Late Janardan Sharma, Director, Sidhartha Nagar, Jagdeo Path, Bailey Road, P.S. Rupaspur, Patna-800014.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Building construction Department, Vishwesraiya Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Health Department, New Secretariat, Patna, Bihar.
3. The Chief Engineer, Building Construction Department, South Circle, Vishwesraiya Bhawan, Bailey Road, Patna.
4. The Executive Engineer, Building Construction Department, Patna Division, Patna.
5. The Superintendent, Patna Medical College Hospital, Patna.
6. The Principal, Patna Medical College Hospital, Patna.
7. The Chief Secretary, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Jha

For the Respondent/s : Mr. GP4- UMA SHANKAR

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 28-07-2015

Heard the Counsel for the petitioner and A.C. to G.P.-4 for the State.

Counter affidavits on behalf of the respondent Superintendent, P.M.C.H. as well as respondent Building Construction Department of the Government have been filed. No counter affidavit, in spite of indulgence granted by this Court, has been filed by the respondent Health Department.

The petitioner is a company established under the Companies Act. The petitioner entered into an agreement with Respondent no. 4



for renovation of the first floor in Bio-Chemistry, Physiology Department, New Anatomy and Old Anatomy building of the P.M.C.H.. A copy of the agreement is enclosed as Annexure-1. After the agreement, the petitioner was directed to commence the work and finish the same as early as possible considering the necessity of the work. The petitioner, in right earnest, commenced the work and it is claimed that the same was finished as per the specification and bills were raised. The payment of the work done by the petitioner has not been made by the respondents which has propelled filing of the present writ petition with a prayer to command the respondents to pay the legal dues of the petitioner on completion of contract work which in the submission of the petitioner is not in dispute.

From the pleadings made in the writ petition as well as the counter affidavit(s) filed by the respondents, it appears to this Court that the payment of the legal dues of the petitioner has been denied due to the fact that which department of the government will allocate the fund enabling the respondent authorities of the P.M.C.H. to make payment of the legal dues of the petitioner. Petitioner has relied on Annexure-4 in this regard which is a communication issued by the Special Secretary to the Building Construction Department and addressed to the Principal Secretary, Department of Health wherefrom it appears that the fund is to be released by the Health Department.



In the counter affidavit of the Respondent no. 4 affirmed by the Executive Engineer of the Building Division, Patna, it has been stated that the petitioner discharged the work under an agreement entered between the petitioner and the respondent and the first on account bill of Rs. 10,33,661/- has been submitted before the respondent Principal P.M.C.H. but due to non-allotment of the fund, payment has not been made to the petitioner. The administrative approval for the work in question in the case was granted by the Health Department. Thus, it appears to this Court that a dispute between the two departments of the Government has resulted in non-payment of the legal and admissible dues of the petitioner. Unfortunately, the Health Department has not filed any counter affidavit enabling this Court to resolve this dispute.

In the aforesaid background, in my view, the ends of justice shall be sub-served if the writ application is disposed of directing the Chief Secretary of the Government to resolve the dispute with regard to responsibility/liability of the Department of the Government for allocation of the fund in order to ensure that the legal dues of the petitioner are paid forthwith.

Let the Chief Secretary of the Government of Bihar be impleaded as party respondent to the present writ petition in course of the day. The respondent Chief Secretary shall consider the aforesaid

grievance of the petitioner in the light of present order and resolve the issue at his level in accordance with law as quickly as possible preferably within four weeks of its production/presentation. The petitioner undertakes to produce a copy of this order along with an application/representation within three weeks from today before the respondent Chief Secretary.

(Kishore Kumar Mandal, J)

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