

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21865 of 2014

=====

Rajeev Ranjan Singh, Son of Sri Krishnadeo Singh, proprietor of M/s Satya Sai Construction, resident of Mohalla- Colony No. 1, P.S.- Katihar, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Engineer-cum-Chief- Additional Commissioner-cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
3. Chief Engineer, Road Construction Department, Government of Bihar, South Circle, Patna.
4. The Managing Director, Road Division, Bihar Rajya Pul Nirman Nigam Ltd., Patna- 800015.
5. Superintending Engineer, National High Way Division, Purnea.
6. Senior Project Engineer, Road Division, Bihar Rajya Pul Nirman Nigam Ltd., Patna.
7. Executive Engineer, national High Way Division, Purnea.
8. SDO National High Way Sub Division, Katihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. S.N.Mishra, Advocate.
Mr. Ajay Kumar Singh, Advocate.

For the State : Mr. Arbind Kumar, AC to XC 28

For the Respondents : Mr. Narendra Kr. Singh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 08-01-2015 Heard learned counsel for the parties as with regard to

the following relief prayed in this writ application:

"1.for directing the respondents to pay Escalation Bill Bitumen Price Neutralisation/Escalation Bill on Bitumen component of Rs. 1705703.00 (Seventeen lacs five thousand seven hundred and three rupees only) for the strengthening work of NH-81 in KM 29(P) to 33(P) under District Katihar under Agreement No. 19F2 of 2007-08. And payment due to increase/decrease in price/wages after receipt of tenders per clause 10 C.A 452410.00 (four lacs fifty two thousand four hundred and ten rupees only) for the strengthening work of NH-81 in KM 34 to 36 under District- Katihar for the year 2011-12 under the Agreement 20F2 of 2007-08. And payment of Rs. 473592.00 (Four lacs seventy three thousand five hundred ninety two rupees only) for the work of NH-81 in KM 37 to 39 under district Katihar for the year 2011-12

under the Agreement No. 21F2 of 2007-08."

2. Mr. S.N.Mishra, learned counsel for the petitioner, while referring to the documents enclosed with the writ application, has sought to make out a case of admitted payment. In this regard, he has relied on the last measurement made in the measurement book duly signed by the Assistant Engineer.

3. Learned counsel for the respondents, on the other hand, do not admit the fact that the claim of the petitioner is admitted and would like to file a counter affidavit.

4. In the considered opinion of this Court, as the document itself does not make out an admitted claim inasmuch as the measurement book signed by the Assistant Engineer cannot be a proof of the admitted claim, this Court, instead of keeping the matter pending, would dispose of the writ application with a direction to the competent authority to examine the claim of the petitioner with regard to admitted payment and if it is found that such claim is admitted, the admissible payment to the petitioner be also made to the petitioner preferably within a period of three months from the date of receipt of a copy of this order.

5. It, however, goes without saying that if such claim of the petitioner is not found to be admitted and the payment of the amount claimed by the petitioner is refused as a whole or in part,

the competent authority shall be under obligation to record reasons and communicate the same to the petitioner within the same period of three months. Thereafter, the petitioner shall have the only liberty to move for arbitration as per the *inter parte* agreement governing the petitioner and the respondents.

6. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

U			
---	--	--	--