

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9787 of 2014

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M/s Azad Construction, resident of Village- Sundar Kumhari, P.S- Barachatti,
District- Gaya through its Managing Director, Azad Anwar, son of Md. Suleman.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer (South) Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Government of Bihar, Patna.
5. The Executive Engineer, Rural Works Department, Works Division, Nimachak Bathani, Gaya.
6. The Assistant Engineer- cum- S.D.O., Nimachak Bathani, Gaya.
7. The Junior Engineer, Bodh Gaya Block, Nimachak, Bathani, Bodh Gaya, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ramakant Sharma, Sr. Advocate

Mr. Rajesh Kumar, Advocate

For the Respondents : Mr. Swapnil Kumar Singh, AC to GP1

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-02-2016

Heard learned Senior Counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for quashing the
order contained in Memo No. 216 dated 29.03.2014 issued under
the signature of the respondent Executive Engineer whereby and
whereunder the respondent authorities rescinded the agreement
No. 21F/2011-12 entered with the petitioner for execution of
work pursuant to the agreement and for a direction for final

measurement and payment of the amount due to the petitioner for the work completed by it.

3. Learned counsel for the petitioner at the time of hearing confines the prayer only with regard to payment of admitted dues after making final measurement of the work completed by the petitioner. It is submitted that the major part of the work required to be done in terms of agreement signed on 07.12.2011 has also been completed by the petitioner, but only partial payment has been made.

4. In view of the nature of the grievance of the petitioner, the writ petition is disposed of with consent of the parties, granting liberty to the petitioner to approach the Executive Engineer, Rural Works Department, Works Division, Nimachak Bathani, Gaya (Respondent No. 5) with a fresh representation. If any such representation is filed within a period of two weeks from today, the Respondent No. 5 shall take steps for making final measurement of the work completed by the petitioner within a further period of two weeks thereafter. The Respondent No. 5 shall further ensure payment to the extent found due to the petitioner within a period of six weeks from the date of completion of the final measurement. Any delay in payment of the admitted amount beyond the stipulated period as

stated above, shall entitle the petitioner to receive payment together with simple interest at the rate of 9% per annum on the admitted dues calculated from the date when the amount became due till the date of its actual payment. In case the petitioner's claim is found inadmissible, whether in whole or in part, the petitioner's representation shall be disposed of by a speaking order in that regard.

5. It is made clear that this Court is not expressing any opinion on the merits of the claim of the petitioner.

(Vikash Jain, J)

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