

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16393 of 2012

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Birendra Kumar Sinha, son of Late Kamla Kant Prasad, Resident of Aliganj, P.S-
Banka, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through the Commissioner, Building Construction
Department, South, Wing Bihar, Patna.
2. Chief Engineer, Building Construction Department, South Bihar, Wing, Bihar,
Patna.
3. Commissioner, Bhagalpur Division, Bhagalpur.
4. Executive Engineer, Building Construction Division, Banka

.... Respondents

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Appearance :

For the Petitioner : Mr. Shiwesh Chandra Mishra, Adv.

For the Respondents : Mrs. Nutan Sahay, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-08-2016

Heard learned counsel for the petitioner and the
respondents.

2. The present writ petition has been filed for quashing the
letter no. 279 dated 10.03.2010 issued by the Executive Engineer,
Bhawan Pramandal, Banka by which action has been taken for the
forfeiture of the deposited amount and inclusion of the petitioner's
name in the blacklist without hearing the petitioner; to quash the
memo no. 172 dated 29.03.2011 passed by Commissioner, Bhagalpur
Division, Bhagalpur; and further direct the respondent to pay the
amount due for the work which has been done in time and according to
agreement.

3. At the outset, this Court takes note that the petitioner
had earlier approached this Court in C.W.J.C. No. 514 of 2011 with a

challenge to the letter dated 10.03.2010 which has over again been made the subject matter of challenge in the present writ petition. The prayer in this regard cannot thus be entertained in view of disposal of C.W.J.C. No. 514 of 2011 by order dated 19.01.2011.

4. The only remaining prayer which may be entertained is with regard to the direction sought for payment of the dues of the petitioner in respect of work completed according to the agreement.

5. It is submitted that the petitioner is entitled for payment in respect of work completed in accordance with the agreement and for which he has made representations to the Commissioner, Bhagalpur Division, Bhagalpur (respondent no. 3) but is yet to receive the payment due.

6. Learned counsel for the respondents, on the other hand, refers to the impugned order dated 29.03.2011 passed by the Commissioner, Bhagalpur Division, Bhagalpur (respondent no. 3) whereby it had been assured that payments in respect of the eight completed works would be made upon receipt of allotment of funds.

7. From the observations of respondent no. 3 as aforesaid, it is apparent that there is no dispute with regard to the petitioner's entitlement for payment in respect of the eight completed works. Despite the same, there is nothing on record to indicate that any steps have been taken by the respondents in an effort to ensure payment to the petitioner though more than 5 years have since elapsed.

8. In the above view of the matter, this writ petition is

disposed of with the consent of the petitioner, granting him liberty to approach the Commissioner, Bhagalpur Division, Bhagalpur (Respondent No. 3) with a fresh representation for redressal of his grievances. If any such representation is filed within a period of two weeks from today, the same shall be considered and disposed of, ensuring payment to the extent found due to the petitioner, within a period of six weeks from the date of receiving the petitioner's representation. 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, if not already paid. 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.

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

(Vikash Jain, J)

Md. Ibrarul/BT

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