

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22894 of 2013

Santosh Kumar Jha Son Of Sri Bhagwan Lal Jha Resident Of Village : - Sangi,
P.S. : - Phulparas, District : - Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Secretary, Department Of Disaster Management, Government of Bihar, Patna
4. The District Magistrate, Patna at Patna, District Patna
5. Union of India through the Ministry Of Home Affairs, New Delhi

.... Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Ranjan Kr. Jha Mr. Suraj Samdarshi
For the State		Mr. Ramadhar Singh, G.P.25 Mr. Upendra Prasad Singh, AC to GP 25

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 19-09-2016

Heard Mr. Y.V. Giri for the petitioner and G.P.25 for the respondents.

On going through the records, it appears the petitioner has approached this Court on several occasions for payment of the dues on account of having supplied the relief materials/articles during 2004 flood which engulf the city of Patna and its neighbouring areas. The petitioner claims to have been assigned the work by the Bihar State Small Industries Corporation (for short 'the Corporation'). Soon after the relief operations, it revealed that large scale bungling was made in course of management of the relief operations. The then District Magistrate of Patna, the petitioner and some other participants in relief operations were made accused of vigilance



case. Said criminal proceeding is pending in court. In these background, the petitioner moved a writ petition in this Court vide CWJC No. 11974 of 2007 for a direction upon the respondents to pay the admitted dues of the petitioner which was/were incurred in supplying the relief articles/materials under the orders of the respondents. As a criminal proceeding was lodged, no one on behalf of the State responded to the request of the petitioner for settling all the admitted dues and payment thereof. The Writ Court by order dated 28.07.2008 (Annexure-10 series, at page 51 of the brief) directed for constitution of a Committee of the officers who was to consider the claim of the petitioner and take appropriate decision in accordance with law. It was found so desirable as only on account of lodging of a criminal case the civil liability was not required to be ignored by the State respondent(s), particularly when some supplies of relief articles/materials were admittedly made. The Committee of the officers from the concerned departments was constituted to examine the claim of the petitioner. A report dated 22.06.2009 was submitted by the Committee wherein it admitted some of the claims of the petitioner based on the work order borne out from the records. The other claim of the petitioner was disputed and declined. Challenging the correctness thereof, another writ petition being CWJC No. 3332 of 2010 was filed by the petitioner. The learned Single Judge having extensively surveyed the pleadings/counter pleadings on record in paragraph 19 of the order held as under:-

“A bare perusal of the aforesaid papers and reports including the finding arrived at by the Committee sufficiently shows without any shadow of doubt that all the papers were scrutinized and concurrent finding was arrived at by a team of officials of the Committee constituted by the Chief

Secretary and the civil liability has been duly settled as per the aforesaid order of this Court. A mere report of the Ministry of Home Affairs cannot be the final criteria to decide a civil liability, especially when the stand of the Central Government is that the matter has to be settled with the State Government and the Corporation.”

The relief was declined. In other words, the claim of the petitioner for payment of the entire dues for supply of relief articles/materials was not accepted. Dissatisfied therewith the petitioner filed a writ appeal being LPA No. 594 of 2012. A Division Bench of this Court vide order dated 24.09.2013 permitted the writ petition to be withdrawn having noted as under:-

“Learned counsel Mr. Jitendra Singh has appeared for the appellant. He conceded that the matter at dispute involves disputed questions of fact and writ petition in the subject matter would not lie. He, therefore, seeks leave to withdraw the writ petition.

Learned advocate Md. N. Huda Khan appears for the respondent authorities. He has no objection if the writ petition is withdrawn.”

The counsel for the petitioner has stated that a suit thereafter has been filed by the petitioner vide T.S. No. 5743 of 2014 for payment of the outstanding dues which is pending consideration before the court. In the backdrop of these happenings, the present writ petition is filed for a direction commanding the respondents to extend the benefit of section 50 of the Disaster Management Act, 2005 which provides emergency accounting in cases to meet emergent situation like the relief operation is carried out.

The application is misplaced if not completely misconceived. As noted above, the writ petition filed by the petitioner was permitted to be

withdrawn by the writ appeal court and thereafter the petitioner has already filed a title suit for the money claim against the State respondent which is pending consideration. All issues can be raised before the said court for consideration/adjudication in accordance with law. The Court is not inclined to grant any relief to the petitioner.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	