

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9214 of 2015

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Braj Bhushan Mishra (Advocate) Son of Late Lakshmi Mishra Resident of
Village- Lulha Dhanaw, P.O.- Dhanaw , P.S.- Circle + Block - Baniapur, District-
Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary , Govt. of Bihar, Patna.
3. The Principal Secretary, , Irrigation Department , Govt. of Bihar, Patna
4. The Engineer -in- Chief (North) , Irrigation Department, Govt, of Bihar, Patna
5. The Chief Engineer , Irrigation Department , Govt. of Bihar, Patna.
6. The District Magistrate-cum- Collector, Saran
7. The Executive Engineer, Gandak Project, Saran Canal Division, Chapra (Saran).
8. The District Forest Officer, Saran (Chapra).
9. Sri R.P. Singh , The Proprietor of Kamala Construction , Village- Noon Nagar, Jalalpur, P.O. + P.S.- Jalalpur, District - Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushal Kishor
For the Respondent/s : Mr. AAG10- P.N.SHAHI

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date: 20-12-2016

Heard learned counsels for the petitioner and learned

A.A.G.- 6.

The present writ application has been filed by way of a
Public Interest Litigation by the petitioner, who is an advocate of this
Court, for a direction to the respondents to carry out
construction/lining work of the Sultanganj canal which runs and



crosses through the Village-Lulha Dhanaw, block-Baniapur, Block of Saran District through some other agency as per the terms and conditions of the agreement, as the Respondent no. 9 is not carrying out the work properly hence, the work and payment be stopped, agreement be cancelled. Further prayer has been made to get the enquiry conducted by C.B.I and Respondent no. 9 be prosecuted.

It is contended by learned counsel for the petitioner that the scheme was not executed as per the terms and conditions of the agreement and the entire fund is being misappropriated.

Mr. Pushkar Narain Shahi, learned A.A.G-6 drew our attention to the averments made in paragraph 8 of the counter affidavit filed on behalf of respondent no. 7 , the Executive Engineer, Gandak Project, Saran Canal Division, Chapra, Saran, to the effect that there is a separate wing for quality control check of the on going works. The officers and staffs of the wing have been entrusted with the work of sample collection, test checking of quality and specification of works on regular basis. The payments to the contractors are made by the concerned Executive Engineers only if the report of the test checks is found at par with the standard norms of quality control. Paragraph 8 of the counter affidavit reads as follows:-

“That it is stated that there is a separate wing for quality control check of the on-going works. The officers/staffs of the wing has been entrusted with



the work of sample collection, test checking of quality and specification of works on regular basis. If the report of the test checks is found at par with the standard norms of quality control, the payment of works done by the Contractor is made by the concerned Executive Engineer. Even mobile laboratory is being established to control over the specification and quality of on-going works.”

Further attention of this Court has been drawn to paragraph 18 of the said counter affidavit wherein it has been stated that work in question is being carried out according to the specification and the provisions made in the estimate. Quality of the work is being checked by the Quality Control Division No. 1, Khagaul, Patna and there is no provision of iron bars/rods in the estimate for lining work. Paragraph 18 of the counter affidavit reads as follows:-

“That the statements made in paragraph nos. 8 and 9 of the writ application under reply have already explained in the preceding paragraphs. However, it is stated that the work is being carried out according to the provision made in the estimate. Quality of the work is being checked by the Quality Control Division No. 1, Khagaul, Patna. There is no provision of iron bars/rods in the estimate for lining work. There is provision for construction of stairs in the canal in the estimate and some stairs have been constructed. Construction of some other stairs are in



progress. There is also provision for construction of bridges and outlets in the estimate as per requirement on the site. The work is in progress. Trees are being cut to carry out lining work in canal after prior permission from the D.F.O., Saran. The logs are carried to the Forest Depot at Taria(Saran) as per condition mentioned in the permission letter of D.F.O, Saran.”

In view of the above stand of the State as stipulated in paragraph nos. 8 and 18 of the counter affidavit, it appears that the present writ application has been filed on mere presumption, hence, we find no merit in the writ application. Accordingly the writ application stands dismissed.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

Anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

