

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14413 of 2012

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K.B. Enterprises at Saketpuri, Kankarbagh Patna, P.S.:- Kankarbagh, District; -
Patna, through its Manager Shailendra Kumar Jha son of Lambodar Jha
Resident of Village: - Sangi, P.S.:- Phulparas, District: - Madhubani

.... Petitioner

Versus

1. The Bihar Sanskrit Education Board, Patna, through its Secretary
2. The Chairman of Bihar Sanskrit Education Board, Patna
3. The Secretary of Bihar Sanskrit Education Board, Patna

.... Respondents

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Appearance:

For the Petitioner : Mr. Ranjan Kumar Jha, Advocate

For the Respondents : Mr. S.S. Sundaram, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-09-2016

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for quashing
Letter No. 3230 dated 19.11.2010 (Annexure-6), by which the
respondents have rejected the claim of the petitioner for payment of
bill relating to supply made to respondents in relation to supply for
2004 Annual Madhyama Result Publication.

3. Learned counsel for the petitioner submits that the
impugned order dated 19.11.2010 has been arbitrarily passed in the
backdrop of the admitted fact that the work of supplying the materials
relating to 2004 Annual Madhyama Result Publication was provided to
the petitioner at the notified rates. It is submitted that the materials



were supplied and handed over to one Sri Dinesh Tripathi who appears to have subsequently denied having received the materials. It is further submitted that the statement of the former Chairman Sri Jay Narayan Yadav has also been relied upon in the impugned order, who, however, clearly did not have any material before him for opining that the petitioner's claim appeared to be baseless. In any event, the petitioner was not confronted in this regard, which vitiates the impugned order.

4. Learned counsel for the respondents appears and opposes the writ petition, submitting that the claim of the petitioner involves disputed questions of fact, considering that Sri Dinesh Tripathi to whom the petitioner claims to have handed over the materials, has denied receipt of the same and hence, the very foundation of claim of the petitioner cannot stand.

5. Having heard the parties and on a careful consideration of the materials on record, it appears to this Court that the impugned order dated 19.11.2010 (Annexure-6) has been passed on the basis of the statement of Sri Dinesh Tripathi denying receipt of the materials, as well as on the opinion of the former Chairman Sri Jay Narayan Yadav. The respondents have not been able to satisfy this Court that the petitioner was confronted in this regard before the impugned order was passed. There is, therefore, a clear and apparent violation of the principles of natural justice inasmuch as the impugned order is based on materials with regard to which the petitioner has not been heard.

6. In the above view of the matter and with the consent of parties, the impugned order dated 19.11.2010 (Annexure-6) is set aside with liberty to the respondents to issue an appropriate show cause to the petitioner before proceeding further in the matter. The petitioner's response, if any, shall be considered and disposed of by a speaking order in accordance with law after grant of an opportunity of hearing to the petitioner.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
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