

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3461 of 2011

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Ramesh Shankar Pandey, S/o Ram Chandra Pandey, resident of Village + Post Mathurapur, P.S. Sheohar, District Sheohar.

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner-cum-Principal Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Commissioner-cum-Principal Secretary, Deptt. of Planning and Development, Govt. of Bihar, Patna.
4. The Deputy Director, Planning & Development Deptt., Govt. of Bihar, Patna.
5. The District Magistrate, Sheohar.
6. The Chief Engineer (North), Building Construction Deptt., Bihar, Patna.
7. The Executive Engineer, Building Division, Muzaffarpur-2, H.Q., Sheohar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar Verma
Mrs. Sushma Saran
Mr. Pramod Kumar Prasad,
Ms. Sweta Kumari, Advocates
For the Respondents: Mr. Kundan Bahadur Singh, SC 22
Mr. Madanjeet Kumar, AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-03-2016

The present writ petition has been filed for quashing the order contained in Memo No. 361 dated 01.02.2010 passed by the Principal Secretary, Department of Planning & Development, Government of Bihar, Patna rejecting the recommendation of the Executive Engineer, Building Division, Muzaffarpur-2, H.Q. Sheohar for allotment/allocation of a sum of Rs. 19,72,676 (Nineteen lakhs seventy two thousand six hundred and seventy six rupees) vide letter no. 668 dated 30.10.2009 which had been made for ensuring payment to the petitioner for completion of work by him; to direct the



respondent-authority to ensure payment of a total sum of Rs. 20,54,700/- in favour of the petitioner at the earliest in view of the letter contained in Memo No. 796 dated 18.12.2008 issued by the Executive Engineer, Building Division, Muzaffarpur-2, H.Q., Sheohar and letter bearing no. 16 dated 30.01.2009 issued by the District Magistrate, Sheohar; to direct the respondent-authority for payment of interest at the market rate from the date of execution/completion of the construction work under the '*Rashtriya Sam Vikas Yojana*'; and for other connected reliefs.

2. Learned counsel for the petitioner submits that indisputably the petitioner has completed the works of construction of the guard-room and the compound wall within the Anchal Office at Piprahi and Anchal Office at Sheohar within the district of Sheohar in view of the agreements Nos. 64F2/2006-2007 and 63F2/2006-07 executed on 28.03.2007. It is submitted that the District Magistrate by his letter No. 50 dated 20.07.2007 had requested the Planning & Development Department, Bihar for approval of the estimated cost of the works, in the backdrop of the said Department's earlier letter No. 35 dated 06.10.2007 in which reference was made of approval having been accorded under the "*Rashtriya Sam Vikas Yojna*" by the State Level Steering Committee in its meeting held on 20.12.2006 in relation to the construction of guard-room and boundary wall in



Anchal Campus at Piprahi and Anchal Campus at Sheohar, respectively. The works in question were required to be executed in the larger interest of administration, the district of Sheohar being an area infested with Naxalism. It is further submitted that as against the petitioner's claim of Rs. 20,54,700/- being due to him for the work so completed, the Executive Engineer, Building Division-2, Headquarter, Sheohar on being satisfied has recommended to the Principal Secretary, Planning & Development Department for allotment of fund of Rs. 19,72,676/- and thus, the entitlement of the petitioner at least to that extent stands admitted and he is entitled for payment of the same.

3. Learned counsel for the respondents, on the other hand, opposes the writ petition to submit that the concerned works relate to the '*Rashtriya Sam Vikas Yojana*' being a scheme of the Central Government which required approval at the State Level Steering Committee. It is submitted that such approval has not been given by the State Level Steering Committee in its meeting held on 20.12.2006 and 22.06.2007 whereas, even prior to that, the District Magistrate has already appointed the Executive Engineer, Building Division-2, Sheohar as the Executing Agency in respect of the two works in terms of letter dated 13.12.2006. It is further stated that action has been recommended against the then District Magistrate, Sheohar and a show cause notice has also been issued to him by letter no. 9908 dated

08.07.2015.



4. Having heard the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. It is not in dispute that the District Magistrate in his letter dated 13.12.2006 had appointed the Executive Engineer, Building Division, Sheohar as the Executive Agency, who had acted on the instructions and directions of the District Magistrate. Accordingly, the technical approval to the plans was given and notice inviting tender was issued in which the petitioner successfully participated, all of which culminated in the agreements being executed. It is also not in dispute that the petitioner has duly completed the works in term of the agreements to the satisfaction of the authorities.

5. This Court, therefore, is of the view that having taken works from the petitioner in terms of the agreements entered into between the petitioner and the respondents by selecting the petitioner under a tender notice, the respondents cannot now be permitted to turn around and refuse payment to the petitioner merely on the ground of absence of administrative approval by the State Level Steering Committee. If the then District Magistrate acted beyond his powers, he would be answerable in the departmental action said to have already been initiated against him. This, however, cannot constitute a reason for denying payment to the petitioner without any fault on his

part and who has admittedly completed the works entrusted to him, moreso when connivance or fraud has also not been whispered against the petitioner.

6. In the above view of the matter, the impugned order of the Principal Secretary, Planning & Development Department, Government of Bihar, Patna dated 01.02.2010 (Annexure-12) is set aside. If the petitioner approaches the District Magistrate, Sheohar (respondent no. 5) with a copy of this judgment within a period of two weeks from today, the District Magistrate shall take requisite steps for ensuring payment of Rs. 19,72,676/- being the value of the works admittedly completed by the petitioner in terms of the letter No. 668 dated 30.10.2009 of the Executive Engineer, Building Division, Sheohar be paid to the petitioner within a period of eight weeks thereafter. The petitioner shall cooperate in furnishing any requisite document as may be required for the purpose. It is made clear that the respondents shall not allow the absence of approval of the State Level Steering Committee stand in the way of payment to the petitioner.

7. The writ petition stands allowed with the aforesaid observations and directions.

(Vikash Jain, J)

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