

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7919 of 2014

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Gokul Sound and Electric Decorator, through its proprietor Kumar Sanjay, S/o
Shree Ram Chandra Sah resident of P.S.- Chota Bariyarpur, Motihari, East
Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur
3. District Magistrate cum Collector cum District Election Officer, District East
Champaran at Motihari
4. In-Charge Officer, Motihari, District- East Champaran
5. Deputy Election Officer, Motihari, District- East Champaran
6. Dealing Clerk, Collectorate Motihari, District- East Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Piyus Lal, Adv.

For the Respondent/s : Mr. Manoj Kumar Sinha, Ac to SC-30

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-03-2016

Heard learned counsel for the petitioner and the
respondents.

2. The present writ petition has been filed for a
direction to the respondents to make payment of the dues
amounting to Rs. 70,59,034/-; as well as balance amount of
Rs. 7,57,527/- against the work for P.A. sound system for which
34 bills had been submitted for an aggregate amount of
Rs. 10,87,106/-.

3. Learned counsel for the petitioner invites
attention to the impugned order dated 07.08.2010 referring,
inter alia, to a report dated 15.07.2010 submitted by a Four-Man

Enquiry Committee which has been made the basis for concluding that the admissible amount of the bills had been paid to the petitioner. A specific stand has been taken in para-28 of the writ petition to the effect that such Enquiry report dated 15.07.2010 was never communicated to the petitioner prior to passing of the impugned order.

4. A counter affidavit has been filed on the basis of which learned counsel for the respondents State submits that the admitted dues of the petitioner amount to Rs. 26,41,065/- has been duly paid to the petitioner and the remaining amounts claimed were found not genuine.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the submissions of the learned counsel for the petitioner. On an earlier occasion, the petitioner had approached this Court in C.W.J.C. No. 5376 of 2010 as the bills of the petitioner were not being settled. The writ petition was disposed of with the following observations:-

“This writ application is disposed of with a direction upon the District Magistrate, East Champaran that he will get the bills of the petitioner verified and thereafter take steps for payment of admitted work done by him within a period of three months from the date of communication or production of a copy of this order. If there are any legal objections which are cogent and valid the petitioner would be told of the same within the same time frame.”

6. This Court had therefore contemplated that the respondents would communicate the legal objections to the petitioner, meaning thereby that the petitioner would have the occasion to put forth any material in support of his claim in answer to such legal objections. The petitioner, however, has been granted no such opportunity, rather an inquiry report has been obtained and relied upon without grant of a copy thereof, much to his detriment.

7. In the above view of the matter, the impugned order dated 07.08.2010 is set aside with a direction to pass orders afresh after granting a copy of the inquiry report dated 15.07.2010 to the petitioner and after affording a reasonable opportunity of being heard in the matter. Details of any bills alleged to be bogus or non-genuine should also be made available to the petitioner to enable him to rebut such inference.

8. The writ petition stands allowed. 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/-

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