

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6751 of 2008

=====

Usha Devi wife of Late Girija Nandan Thakur, resident of village Mani, PS Sarai,
district Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna
2. Additional Secretary, Water Resources Department, Government of Bihar, Patna
3. Chief Engineer, Water Resources Department, Sasaram
4. Chief Engineer, Water Resources Department, Muzaffarpur
5. Superintending Engineer, Water Resources Circle, Bhabhua, Kaimoor
6. Executive Engineer, Water Resources, Dihri Division, Dihri, Sasaram
7. Assistant Engineer (Mechanical) Water Resources, Dihri Division, Dihri, Sasaram

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Banwari Sharma
Mr. Sahjanand Sharma
Mr. Shiv Kumar

For the Respondent/s : Mr. Sudhir Kumar, AC to AAG 2

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-01-2016

Submission of the learned counsel while assailing Memo No.272, dated 14.2.2008 contained in Annexure- 16, is that the decision to effect recovery taken by the respondents cannot be sustained in view of the provisions of the CCA Rules as well as the interpretation and the power and the manner in which it is required to be exercised as has been held even in the case of the present petitioner earlier. Copies of some of those decisions have been annexed as Annexures 17, 18 and 19.

Submission is that without any provision a sum of

Rs.4,65,867 is now sought to be recovered because the original amount indicated in Annexure- 16 has now been reduced after the petitioner provided evidence of utilization of cement to the respondents. In fact, if proper enquiry was held, the erstwhile petitioner would have been in a position to explain the other liability created upon him for which he was not given opportunity.

Keeping in mind the decisions rendered in Annexures 17, 18 and 19, the impugned order contained in Annexure-16 dated 14.2.2008 and Annexure- H dated 9.7.2015 are quashed. If the respondents want, they can proceed in accordance with law.

Writ is allowed.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--