

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21215 of 2014

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Arun Kumar, son of Sri Chandrashekhar Prasad Singh, resident of Mohalla Murarpur, Police Station Laheri in the District of Nalanda.

.... Petitioner

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur (Vaishali).
2. The General Manager, East Central Railway, Hajipur (Vaishali).
3. The Principal of Chief, East Central Railway, Hajipur (Vaishali).
4. The Senior Divisional Engineer (I), East Central Railway, Danapur.
5. The Senior Section Engineer (W), East Central Railway, Fatuha.
6. The Assistant Divisional Engineer (line), East Central Railway, Patna Junction, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar
For the Rep. Railway : Mr. Ashok Kumar Kesri, Sr. Advocate
Mr. Kalyan Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-04-2016

Heard learned counsel for the petitioner and learned counsel for the Respondent Railway.

2. The present writ petition has been filed for quashing office order vide letter No. W-2/08/Misc./PNBE (L)/Open/13-14 dated 27.08.2014 issued under the signature of respondent No. 4 i.e. Senior Divisional Engineer (I), E.C. Railway, Danapur by which the contract of the petitioner vide C.A. No.W-7/08/Misc./PNBE (L)/Open/13-14 dated 28.06.2013 for realiment of approach road at L.C. No. 23rd and 26 in FUT-IRP (Fatuha-Islampur) Section has been terminated.

3. Learned counsel for the petitioner submits that the



termination order is wholly illegal as having been passed without providing any opportunity of hearing to the petitioner and without serving any prior notice. It is therefore submitted that the impugned order is in violation of the principles of natural justice. Learned counsel for the petitioner also refers to his letters dated 24.01.2014 and 04.06.2014 seeking extension of time for completion upto 21.04.2014 and 30.06.2014 respectively (Annexure 3 and 4), but the time was arbitrarily not extended by the Respondents.

4. Learned counsel for the Respondent Railway on the other hand, opposes the writ petition on the ground that the submission of the petitioner is factually incorrect. He invites attention to the counter affidavit enclosing letters dated 30.12.2013, 10.04.2014, 11.08.2014 and 19.08.2014 (Annexure 'C' series), each of which stated that the petitioner had not even started the work nor applied for extension of time on valid grounds. It is also submitted that the petitioner had adequate remedy by way of arbitration and the petitioner is not entitled to any relief in the present writ petition.

5. Having heard the parties and on consideration of the materials on record, this Court finds this writ petition to be completely devoid of merit. It is a matter of record that the date

of completion of the construction according to the agreement expired on 21.10.2013 whereas extension of time upto 24.04.2014 was sought by the petitioner three months after such expiry on 24.01.2014. The second extension application was similarly filed on 04.06.2014 for extension upto 30.06.2014 well beyond the expiry of the date upto which extension had earlier been sought. No further extension thereafter was sought and the contract has been terminated on 27.08.2014 well after the expiry of the time for extension last sought upto 30.06.2014 by the petitioner. Significantly, the aforesaid four letters of the respondents disclose that the petitioner had not even commenced the work even till beyond the expiry of date of completion and hence no fault can be found in the action of the Respondent Railway in terminating the contract of the petitioner. The facts stated in the counter affidavit to the above effect have not been refuted as no rejoinder to the counter affidavit has been filed on behalf of the petitioner.

6. In the above circumstances, the writ petition stands dismissed.

(Vikash Jain, J)

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