

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9096 of 2017

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1. M/s Magadh Construction Works, a Partnership Firm having its Head Office at New Area, Nutan Nagar, Gaya, through one of its Partner Shri Ram Naresh Sharma S/o late Ambika Sharma Resident of New Area, Nutan Nagar, Gaya, P.S. & District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Secretary, Road Construction Department, Government of Bihar, Patna
3. The Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna.
4. The Chief Engineer(Traffic), South Bihar Wing, Road Construction Department, Government of Bihar, Patna,.
5. The Superimntending Engineer, Road Construction Department, Magadh Road, Circle, Gaya.
6. The Executive Engineer, Road Construction Department, Road Division, Sherghati, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad

For the State : Mr. Rajeev Shekhar, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-08-2017

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

In the present case, petitioner is seeking relief for giving direction to the respondents to sanction and approve the revised estimate prepared by the Executive Engineer with the help of the concerned Assistant Engineer and Junior Engineer which was submitted on 6.10.2015 to the higher authorities and which has not been taken into consideration and not acted upon.



Brief facts of the case is that petitioner has participated in the tender for strengthening of Chichaura More Tutukhi Usasdeora Road. The distant of the road was 12 K.M. The tender was not finalized by one and half years. Thereafter work order was issued for value of Rs.8,18,92,010/- but later on it was found that the condition of the road was deteriorated. The petitioner has approached to the Executive Engineer, who has requested the Superintending Engineer to make an inspection of the road in question. Thereafter Superintending Engineer directed the Assistant Engineer and Junior Engineer to prepare a revised estimate.

Learned counsel for the petitioner submits that same has been approved even by the Chief Engineer which is clear from letter dated 15.1.2016 wherein he has given details of facts that the condition of road has deteriorated and in such circumstances, rate is required to be revised.

This Court is not considering the merit of the case as revision of rate is nothing but is novation of contract that can be done by the mutual agreement of parties. As petitioner has claimed that there is a recommendation for revision of the rate so he will file detail representation.

In such view of the matter, petitioner is directed to file a



detailed representation before the Principal Secretary, Road Construction Department, Government of Bihar, Patna along with supporting documents and Principal Secretary will consider the case of the petitioner from every angle and will take decision and pass a reasoned order. He will also consider whether there is any recommendation of the Chief Engineer for revision of rate or not. All process should be completed within a period of two months from the date of filing of the representation. It will be fair on the part of the Principal Secretary that before taking decision he will call upon the petitioner and his Officers and will give opportunity of hearing and decide the case on merit.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.8.2017
Transmission Date	NA

