

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7336 of 2016

=====

Bachchu Narayan Singh, son of Late Tejlal Singh, resident of Village- Kushahar,
P.O. & P.S.- Bind, District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar through its Secretary, Public Health Engineering Department, Visheshwaraiya Bhawan, Patna.
2. The Engineer-in-Chief, Public Health Engineering Department, Visheshwaraiya Bhawan, Patna.
3. The Chief Engineer, Public Health Engineering Department, Visheshwaraiya Bhawan, Patna.
4. The Regional Chief Engineer, Public Health Engineering Department, Veterinary Campus, Patna.
5. The Superintending Engineer, Public Health Engineering Department, Rajwanshi Nagar, Patna.
6. The Executive Engineer, Public Health Sub-Division, Biharsharif, District- Nalanda.
7. The Sub-Divisional Officer, Public Health Sub-Division, Biharsharif, District- Nalanda.
8. The Assistant Engineer, Public Health Sub-Division, Biharsharif, District- Nalanda.

.... Respondents

=====

Appearance:

For the Petitioner/s : Mr. Vidya Sagar, Adv.

For the Respondent/s : Mr. Kumar Pankaj, A.C. to S.C.-5

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-04-2017

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

2. In this case, the petitioner is seeking payment of the



dues for the work he has carried out in pursuance of the Work Order, which was issued to him.

3. The short facts of this case are that a tender was floated for execution of the work for laying down the pipes in different villages under the Public Health Department, Bihar Sharif for the purposes of supplying water to the villagers. The value of the work was Rs.1,34,24,550/-. As the petitioner was the lowest tenderer, the work was allotted to him.

4. As per the petitioner he has completed the work and the villagers are receiving the water through the said pipeline. The only limited dispute relating to payment of amount. From time to time, the petitioner has submitted the running bills, which have been paid to him, but the department has refused to pay the final bill of Rs.11,04,016/-, which is clear from Annexure-3 to the writ application, bearing the signature of the Sub-Divisional Officer, who now happens to be the Executive Engineer as on today. The petitioner further claims that he is moving around, but till date the final payment has not been made, which led to approach this Court in the present writ application.

5. In the counter affidavit, the State has not disputed the



fact of execution of the work done by the petitioner. The only question is what amount the petitioner would receive. Annexure-4 attached to the writ application, as has been pointed out by learned counsel for the petitioner, itself indicates that the error crept in preparation of the bill was rectified and finally it was found that the petitioner is entitled to Rs.10,06,626/-.

6. Learned counsel for the State submits that it is always subject to the statutory deduction as without deduction payment cannot be made.

7. In paragraph No.14 of the supplementary counter affidavit, it has been stated that some statutory deductions have to be done, such as V.A.T., Income Tax, Labour cess, royalty and the cost of extension of work at the rate of 10% and after making the statutory deductions, finally it has been arrived that the petitioner is entitled to Rs.7,57,126/-

8. In the present case, the question is also raised about the deduction of custom and excise duty. It has been claimed by the petitioner that at the time of purchase of pipes, has already been paid the custom and excise duty and as such, there is no question of further payment.



9. In such view of the matter, let the Executive Engineer, Public Health Division, Biharsharif, Nalanda, release the admitted amount of Rs.7,56,126/- in favour of the petitioner within two weeks from today. With regard to the disputed claim, the petitioner is at liberty to approach the appellate authority for the resolution of the same.

10. The petitioner is directed to approach to the office of the Executive Engineer, Public Health Division, Biharsharif, Naland, who must ensure the handing over the cheque to him. In failure to comply the order, the petitioner is at liberty to revive the present writ application by filing a simple affidavit.

11. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	17.04.2017
Transmission Date	N/A.

