

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19715 of 2012

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1. Ram Tapashya Sharma Son Of Late Ram Chandra Sharma Resident Of Turkauliya, Purvari Tola, P.O. + P.S. - Turkauliya, District - East Champaran, Motihari
 2. Vinod Prasad Son Of Kishun Deo Prasad Resident Of Village - Naya Tola, Madhumalat, P.O. - Madhopur Tansaraiya, P.S. - Turkauliya, District - East Champaran, Motihari
 3. Azaz Ahmad Son Of Sheikh Jauwad Resident Of Village - Shankar Saraiya, Fateh Tola, P.O. + P.S. - Turkauliya, District - East Champaran, Motihari

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Chief Secretary, Government Of Bihar, Patna
2. The Secretary, Rural Works Department, Government Of Bihar, Patna
3. The Engineer In Chief, Rural Works Department, Government Of Bihar, Patna
4. The Superintending Engineer, Rural Works Department, Works Circle Bettiah, West Champaran
5. The Superintending Engineer, Rural Works Department, Works Circle, Motihari (East Champaran)
6. The District Magistrate, East Champaran, Motihari
7. Sri Arun Kumar, The Then Executive Engineer, Rwd, Works Division, Motihari Presently Posted As Executive Engineer, Rwd , Works Division, Danapur, District - Patna
8. Sri Vinod Kumar, The Then Assistant Engineer (Sdo), Rwd, Works Sub Division, Motihari, Presently Posted As Assistant Engineer, N.R.E.P., Sitamarhi
9. Sri Vijay Shankar Prasad, The Then Junior Engineer, Rwd , Works Division, Motihari, Presently Posted As Junior Engineer, Pwd, Road Division, Dehri-On-Son
10. The Executive Engineer, R.W.D. Works Division - 2, Motihari, Newly Constituted As Rwd Works Division, Areraj

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar
For the State	:	Mr. Chittaranjan Sinha, PAAG-2
		Mr. Sudish Kumar, A.C. to PAAG-2
For the Respondent 7, 8 and 9	:	Mr. Rupak Kumar

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

10 02-03-2017

Heard learned counsel for the petitioner and learned



counsel for the State.

2. The petitioner seeks payments of his bills for having conducted construction of PCC work in the month of March, 2008 from Madhumalat Bazar to Madhopur Road under RWD Works Division, Motihari, as per the oral order given by Respondents No. 7, 8, and 9 which was issued in pursuance of a sanctioned Letter No. 153 dated 17.03.2008 issued by the Rural Works Department, Government of Bihar, Patna.

3. Learned counsel for the petitioner submits that the petitioner had executed construction of PCC work under direction issued by the respondents, but now that the work has been completed, the respondents are treating the aforementioned PCC work conducted by the petitioner as unauthorized and have, therefore, declined to pay the legitimate dues of the petitioner.

4. Learned counsel for the petitioner submits that the aforementioned works were executed and sanctioned on the request made by one Ramjee Prasad Sharma, Ex-M.L.C. who requested the then Minister for Rural Works Department, Government of Bihar, Patna for sanction of rupees 10 lakhs for repairing of Madhumalat Bazar to Madhopur Road under the Works Division, Motihari in public interest. It was submitted that vide letter No. 153 dated 17.03.2008, the funds were issued for



construction of several roads including the aforementioned road through the State of Bihar. Accordingly, Rupees Seven lakhs was also allotted for repairing the Madhumalat Bazar to Madhopur Road under Works Division, Motihari.

5. It is submitted by learned counsel for the petitioner that under oral instructions issued to him and several other contractors, the work was executed, but thereafter despite his several requests, the payment of the same has not been made though other contractors have been paid the same. Thus, the present writ application.

6. Learned counsel appearing on behalf of the State submits that the petitioner has no case as no such work can be allotted under oral instructions from any authority. Indeed, some money was sanctioned for construction/repairing of the works including the work purported to have been executed by the petitioner, but thereafter, when an indepth enquiry was conducted, it was found that the works executed by the petitioner were, in fact, at the behest of the local leaders and not by the concerned authorities. It was under such circumstances, that the payments were not made to the petitioner.

7. Learned counsel for the Respondents No. 7, 8 and 9 have also appeared after individual notices. He submits that it was



actually at the behest of the local leaders that these contractors have stepped into the picture and contrary to the rules of the PWD Code certain construction were made which were not sanctioned. It also appears from the record of the case that such constructions have been made and the same being illegal, there is no question of releasing the payments to unauthorised persons. The respondents have also been asked to show cause and after enquiry a warning was issued to him in this regard.

8. As such, it is patently clear that the work, if at all, executed was in violation of all rules in this regard and no writ can be issued in violation of any statutory Rule.

9. As such, the present writ application has no merit. It is accordingly dismissed.

(Anjana Mishra, J)

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