

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3844 of 2015

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Parsuram Mandal son of late Raghu Mandal, resident of village- Mohanpur, Police Station Goradih, District- Bhagalpur. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Minor Water Resources Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna- 800001.
 2. The Chief Engineer, Minor Water Resources Department, Bhagalpur.
 3. The District Magistrate, Bhagalpur.
 4. The District Planning Officer, Bhagalpur.
 5. The Executive Engineer, Minor Irrigation Division, Bhagalpur. Respondent/s
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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Singh, Adv.
For the Respondent/s : Mr. G.P. Ojha, GA-7
Mr. Gopal Krishna, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-02-2017

In this case, the petitioner is challenging the order dated 24.09.2014 passed by the Chief Engineer, Minor Water Resources Department, Bhagalpur whereby and whereunder he has rejected the claim of payment of amount of bill to the petitioner with respect to the construction of culvert in the road for the convenience of the villager.

Under the Chief Minister District Development Scheme, it was decided to construct the R.C.C. culvert near Jalla Bandh in Gram Panchayat, Sanhaura.

The work was allotted to the petitioner, in pursuance thereof, he entered into the work agreement dated 4.3.2008.

The Executive Engineer, Minor Irrigation Division, Bhagalpur, vide letter no. 719 dated 18.5.2009, has directed the



petitioner to start and complete the work at the sanctioned place so that the proper certificate be sent to the District Magistrate, Bhagalpur. In pursuance thereof, he has started the construction, as it was related to the larger public interest, the villager requested the Executive Engineer to expedite the work. The Hon'ble M.L.A. has also requested the Executive Engineer for expeditious completion of the work so that the villager could not feel inconvenience.

The letter of Junior Engineer dated 3.10.2009 indicates that on the request of local M.L.A., Block Pramukh of Sanhaura, the petitioner started the work of culvert, which connects the village passes through Bandh.

The local people and the local M.L.A. have found the culvert has been constructed at appropriate place. .

As per the claim of the petitioner, he has constructed the culvert at most suitable place, which is most beneficial to the public as well as to the villager, which is apparent from the letter of the then Junior Engineer, who was Incharge of the work.

The counsel for the petitioner submits that the Chief Engineer has wrongly rejected the claim of the petitioner, vide letter No. 1426 dated 24.09.2014, holding that the petitioner has constructed the culvert not at the sanctioned place, but it is far away from the sanctioned place.



The petitioner had earlier approached this Court in C.W.J.C. No. 8783 of 2013 where the Court has given direction to the petitioner to file a representation before the Chief Engineer.

From the supplementary counter affidavit it appears that the Chief Engineer along with the Assistant Engineer has made spot verification and found that the petitioner has constructed the purported culvert not at the sanctioned place. The inspection was done in presence of the petitioner-contractor and photo graph of the proposed site as well as the construction of culvert was taken in presence of the contractor. The sketch map as well as the photo graph attached to the supplementary counter affidavit indicates that the culvert was to be constructed at the sanctioned place, but the petitioner has constructed half way culvert at different place which is far away from the sanctioned place. Photo graph, which has been attached with supplementary counter affidavit by the State, itself indicates that half culvert has been constructed, there is no road either of the Wing of the culvert and both sites appear to be filled with water.

The counsel for the petitioner submits that the petitioner has constructed the culvert at the sanctioned place in accordance with the agreement and the letter of the Executive Engineer and the Assistant Engineer as well as measurement book



itself indicates that the petitioner has made construction of the culvert at the right place as per the sanctioned plan, has not made any diversion, which has been certified by the then Executive Engineer, Assistant Engineer and the Junior Engineer and rejection the claim of the petitioner is completely bogus, illegal, not sustainable.

The measurement book was also verified, but the State submits that the report of the Chief Engineer as well as the sketch map and the photo graph itself indicates that the petitioner has not constructed the culvert where he was to make construction and the construction of culvert is in half way, all side surrounded by water and water and there is no sign of road anywhere connecting the culvert. The culvert has been constructed at sanctioned place by Rural Works Department but not by the petitioner.

Having considered the rival contentions of the parties, though some letters are in favour of the petitioner, but after the order of this Court, the inspection report of the Chief Engineer, who has made inspection in presence of the petitioner and the photo graphs have been taken in his presence, the sketch map attached to the supplementary counter affidavit itself indicates that the petitioner has not constructed the culvert at the sanctioned place, but he has constructed two walls, having no road to either side of the Wing, from the face of the record it does not appear that it is serving any public



purpose of the villager or the local people. There is no road in any side of culvert but water and water all around.

In such view of the matter, this Court does not find any merit in the present petition and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	2.3.2017
Transmission Date	

