

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11405 of 2013

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1. Nikhar Construction Pvt. Ltd., through its Managing Director Suvash Kumar.
 2. Suvash Kumar, son of Late Awadhesh Kumar Mishra, Managing Director, Nikhar Construction Pvt. Ltd., Resident Of Mohallah-North Dahiyawan Tola, P.O.- Chapra, P.S.- Chapra Town, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary, Government Of Bihar, Patna.
2. The Principal Secretary, Rural Development Department, Government Of Bihar, Viswasariya Bhawan, Patna.
3. The Engineer In -Chief -Cum- Special Secretary-Cum-Authorised Officer, Rural Road Development Agency, Rural Works Department, Government Of Bihar, Viswasariya Bhawan, Patna.
4. The Chief Engineer-3, Rural Works Department, Viswasariya Bhawan, Patna.
5. The Superintending Engineer, Rural Works Department, Chapra Circle, Chapra.
6. The Executive Engineer, Rural Works Department, Work Division I, Chapra.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Mahesh Narayan Parbat, Sr. Advocate Mr. Ved Prakash Srivastava, Advocate
For the State	:	Mr. Satya Prakash, A.C. to S.C.-22

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 06-10-2017 Heard learned counsel for the petitioners and the learned counsel appearing on behalf of the State.

The petitioners seek payment of their admitted dues, which have been arbitrarily withheld despite the clear-cut policy of the Department to pay the bitumen price of the construction work of roads.

It is submitted by Mr. Mahesh Narayan Parbat, learned Senior Counsel appearing on behalf of the petitioners that the



petitioners' bills were duly approved and recommended for payment way back in the year 2009-2010 respectively, copies of which have been brought on record by way of Annexure 5 series.

However, the counter affidavit filed before this Court reflected the contrary stand taken by the present Executive Engineer. Though the then Executive Engineer had recommended for payment and had in 2010 demanded sanction of the said amount, but for oblique reason, the same was withheld, which necessitated the present petitioners to come to this Court.

Learned counsel for the State submits that the petitioners' case does not fit into the parameters and it cannot be accepted. He furthermore submits that the Public Contract Works Tribunal has been formed, for which the petitioners should approach the said Tribunal before coming to this Court.

It appears that when the petitioners came to this Court, such Tribunal was already functional. But since the matter has remained pending before this Court since long, it is informed at the Bar that as the said Tribunal is not functional, it is futile to keep the matter pending.

Considering the present facts and circumstances of the case



and in the interest of justice and also for the foregoing reason that the petitioners' bills had been sanctioned but not paid, the Engineer-in-Chief- Cum- Special Secretary-cum-Authorised Officer, Rural Road Development Agency, Rural Works Department, Government of Bihar, Patna (Respondent No.3) and the Chief Engineer-3, Rural Works Department, Patna (Respondent No.4) are directed to release forthwith the dues of the petitioners, which should be paid to them within a period of six weeks from the date of receipt/production of a copy of this order.

With the aforementioned observations and directions, the writ application stands disposed of.

(Anjana Mishra, J)

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