IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.135 of 2016

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1. The State of Bihar, through The Principal Secretary, Water Resources Department, Sinchai Bhawan, Harding Road, Patna.
2. The Chief Engineer, Water Resources Department, Purnea.
3. The Superintending Engineer, Water Resources Department, Mahananda Flood Control Circle, Katihar.
4. The Executive Engineer, Water Resources Department, Flood Control Division, Karahgola, Katihar.
5. The Assistant Engineer, Water Resources Department, Flood Control Sub-Division, Karahgola, Katihar.
6. The Junior Engineer, Water Resources Department, Flood Control Sub-Division, Karahgola, Katihar.

.... Petitioner/s

Versus

1. M/s Sri Ram Enterprises Prof. Shri Giriraj Sharma, son of Late Ammi Lal Sharma, resident of Jagarnath Surilane Mandroja, P.O.- Bhagalpur, P.S.- Tarapur, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Advocate
For the State	:	Mr. Nikesh Kumar, A.C.to S.C.-2
For the Opposite Party	:	Mr. Gautam Kejrival, Advocate
		Ms. Aishwarya Riti, Advocate
		Mr. Mohit Agrawal, Advocate

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 15-05-2017

Heard learned counsel for the parties.

The present application has been filed under Section 13 of the Bihar Public Works Contract Dispute Arbitration Tribunal Act, 2008 by the petitioners assailing the award dated 31.03.2016 passed by the Tribunal under the aforesaid Act.

By the impugned award, the Tribunal has held the petitioner (opposite party herein) to be entitled to the security deposit of Rs. 20,15,406/- as deducted from running account bills with simple interest at the rate of Rs.10% per annum from the date of filing i.e. 11.08.2014 and further has also found the petitioners to be entitled to get refund of royalty of Rs. 11,82,874/- as deducted from running account bills with simple interest at the rate of Rs.10% per annum from the date of filing i.e. 11.08.2014

Learned counsel appearing for the petitioners after referring to the documents annexed with the revision application has submitted that the opposite party has not submitted the challan as required as well as the Form 'M' and 'N' which have been produced are not legally valid but the Tribunal has committed material irregularity in allowing the reference case upholding the claim of the opposite party. Elaborating the submissions, it has been contended that the Form 'M' and 'N' (Annexure 4 series) filed by the opposite party clearly disclose that the purchaser and the supplier are the same persons which fact creates doubts on the genuineness and legal validity of those Forms 'M' and 'N' as furnished by the opposite party. It has further also been submitted that though the Assistant Mining Officer, Pakur has given the clearance certificate with regard to payment of royalty for the purchase of the materials by the opposite party, but in response to the request by the Executive Engineer, by letter dated 10.12.2013, the said challans were not sent for verification. It has been finally argued that the documents produced by the opposite party before the petitioners or before the Tribunal were not sufficient for upholding the entitlement of the opposite party for refund of the security deposit and royalty amount.

Mr. Gautam Kejrival, learned counsel appearing for the opposite party, however, has supported the impugned award and has submitted that no case has been made out by the petitioners requiring interference in revisional jurisdiction. The learned counsel has pointed out that there was no requirement in the agreement for production of the challans with regard to the purchase of mining materials and the only requirement was for furnishing the clearance certificate from the Mining Department, which the opposite party has done. Explaining the contents of the Form ‘M’ and ‘N’, it has been submitted that the same could not itself be sufficient for denial of the claim by the opposite party, in view of the fact that the purchaser and the supplier are two distinct legal entities engaged in different types of the work.

After considering the submissions and perusal of the impugned award as well as the materials on record, it is evident that the Tribunal has taken into notice the certificate issued by the Assistant Mining Officer dated 04.12.2013 which was the only requirement under the agreement as is apparent from agreement (Annexure-1) for payment of the royalty. It is, nowhere, case on behalf of the petitioners that the said certificate (Annexure-3) was forged and fabricated document rather to the contrary in response to the letter by the Executive Engineer on 10.12.2013 with regard to the said certificate, the Assistant Mining Officer has, in reply, on 20.12.2013 has affirmed the grant of the said certificate to the opposite party. The opposite party has further furnished the Form ‘M’ and ‘N’ which have been brought on record as Annexure- 4 series to the revision application which was the another requirement under the agreement to be fulfilled by the opposite party for payment of the royalty. The emphasis on the mention of the same name in the column of supplier and purchaser would not be very material in view of the clearance certificate granted by the Assistant Mining Officer showing that the royalties had already paid by the opposite party.

This Court, therefore, comes to the conclusion that there is no error or illegality in the impugned order deserving interference under Section 13 of the Act.

This revision application, sans merit, is dismissed.

(V. Nath, J)

Vats/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	