

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1856 of 2016

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1. M/s Alectra Construction Ltd., Ward No-3, New Colony, Dharampur, Dist-Samastipur through its Director Sri Dhananjay Kumar S/o Sri Anil Kumar Singh

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department, Bihar, Patna.
2. The Engineer-in-Chief, cum Add. Commissioner cum Special Secretary Road Construction Deptt. Bihar, Patna.
3. The Chief Engineer, North Bihar, Road Construction Dept., at Patna.
4. The Executive Engineer, R.C.D. Road Division No.-1, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Singh No.1

For the State : Mr. Karandeep Kumar, AC to GP-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-03-2017

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

In the present writ petition a limited grievance has been made to charge the interest against the mobilization advance at simple interest @ 9% equal to the prevailing rate of interest charged by the Bank.

As per Standard Bidding Document (hereinafter referred to as SBD) for the money which has been advanced by the Road Construction Department the question is charging of interest



would be 14.5% interest or 9% simple interest. As per Clause 10B(iv) of the SBD, the mobilization advance and plant and machinery advance in (ii) & (iii) above bear simple interest and should be equal to the prevailing rate of interest charged by the bank as mentioned in the contract date schedule “F” and shall be calculated from the date of payment to the date of recovery, both days inclusive on the outstanding amount of advance Recovery of such sums advanced shall be made by the deduction from the contractor’s bills commencing after first ten per cent of the gross value of the work is executed and paid, on pro rata percentage basis to the gross value of the work billed beyond 10% in such a way that the entire advance is recovered by the time eighty percent of the gross value of the contract is executed and paid, together with interest due on the entire outstanding amount up to the date of the installment.

In the counter affidavit the State has placed reliance on Clause 10 CC of the schedule where rate of interest has been mentioned as 14.5%. As petitioner was given work for widening and strengthening of Maithi (NH-57) Bakhri Pilkhi Road in 0 to 9 KM for the year 2012-13. Certain advances were made to the petitioner for the purposes of execution of work which was



adjusted of the running bill from time to time but grievance has been raised by the petitioner that in stead of lending rate of Bank in simple interest, the department has been charging very high rate of interest at the rate of 14.5%. In SBD schedule it has been mentioned 14.5% interest whereas in the body of the document mentions, the department would charge interest at lending rate of simple interest.

In such view of the matter, the matter is remanded back to the Secretary, Road Construction Department, Bihar, Patna with a direction to look into the matter and resolve the matter as to whether petitioner is liable to pay interest at the lending rate of the Bank i.e. simple interest or is liable to pay interest at the rate of 14.5%.

For convenience, petitioner is directed to file a detailed representation along with a copy of this order before the Secretary, Road Construction Department, Bihar, Patna who after giving opportunity of hearing to the petitioner will decide the same and take a decision by a reasoned order in accordance with law within a period of two months from the date of filing of the representation.

With the aforesaid observation and direction this writ



petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.3.2017
Transmission Date	NA

