

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15708 of 2013

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Sushil Kumar, S/O Late Yogendra Singh, R/O Mohalla- Gayatri Nagar,
Motihari, P.S.- Motihari (Town), District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar, Through Secretary, Building Construction Department, Biswesaraiya Bhawan, Bailey Road, Patna
2. The Inspector General, Prisons, Bihar at Patna
3. The Chief Engineer, (North) Building Construction Department, Biswesariya Bhawan, Bailey Road, Patna
4. The Superintending Engineer, Building Construction Department, Building Circle, Motihari, District- East Champaran
5. The Executive Engineer, Building Construction Division, Motihari, District- East Champaran
6. The Assistant Engineer, Building Construction Division, Motihari District- East Champaran
7. The Junior Engineer, Building Construction Division, Motihari, District- East Champaran
8. The Jail Superintendent, Mandal Jail, Motihari, District- East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Advocate
For the Respondent/s : Mr. Apurva Kumar, A.C. to G.A.-4

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

Date : 08-09-2017

Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

2. It is submitted by the learned counsel for the State that as per para 6, the petitioner has not signed any contract and, therefore, the question of having executed the contract works by him and for payment thereof is wholly misconceived. Though the petitioner was given the copy of the contract, he failed to sign the same, which is evident from Annexure A to the counter affidavit filed on behalf of respondent Nos.3 to 5. It is, thus, evident that



the petitioner has not performed his part of the contract and agreed to the terms and conditions as stated therein.

3. However, at paragraph 13 of the said counter affidavit, the State has admitted that as and when the funds shall be made available and after proper measurement and evaluation of the work, the payments will be made. It is thus evident from such an assertion made before this Court that the petitioner has performed the work. It is also evident that since funds are not available, the contract was not signed as the process for signing the contract has been stated to be only after availability of the funds.

4. In view of the fact that the respondents have admitted that some work has been done, let the petitioner approach the authority, namely, the Chief Engineer (North), Building Construction Department, Bishesariya Bhawan, Bailey Road, Patna (Respondent No.3), with a copy of this order, who shall call for the file of the said case and after considering all aspects of the matter, decide the case of the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order, along with fresh representation. The authority must make payments to the petitioner, if at all it is found to be in accordance with law. The said payments should be made within a period of one month thereafter. In case the petitioner is not entitled to any payment,



then the authority shall pass a reasoned order, in accordance with law.

5. The writ application stands disposed of.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.9.2017
Transmission Date	N.A.

