

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17176 of 2012

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1. All Round Development Society Having Its Registered Office At Village - Fateh Tola, P.O. - Turkauliya, Distt - East Champaran Through Its General Secretary Ramjee Prasad Sharma, S/O Late Mahavir Sharma, Resident Of Village - Shankar Saraiya, Fateh Tola, P.O. + P.S. - Turkauliya, Distt - East Champaran
 2. Ramjee Prasad Sharma S/O Late Mahavir Sharma Resident Of Village - Shankar Saraiya, Fateh Tola, P.O. + P.S. - Turkauliya, Distt - East Champarn, General Secretary, All Round Development Society, Having Its Registered Office At Village - Fateh Tola, P.O. - Turkauliya, Distt - East Champaran

.... Petitioner/s

Versus

1. The Union Of India Through The Secretary, Ministry Of Labour And Employment, Government Of India, New Delhi
2. The Secretary, Ministry Of Labour And Employment, Government Of India, New Delhi
3. The State Of Bihar Through The Principal Secretary, Labour Resources Department, Government Of Bihar, Patna
4. The Principal Secretary, Labour Resources Department, Government Of Bihar, Patna
5. The District Magistrate-Cum-Chairman, District Child Labour Project Society, East Champaran, Motihari
6. The Assistant Director, Social Security Cell-Cum-Project Director, District Child Labour Project Society, East Champaran, Motihari

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar Mr. Brajesh Kumar Mrs. Ranjeeta Singh Mr. Kundan Kumar
For the Union of India	:	Mr. Kumar Priya Ranjan, C.G.C.
For the State	:	Mr. Dev Kumar Pandey, A.C. to G.P.-2

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

Date: 21-03-2017

Heard learned counsel for the petitioner and learned counsel for the State as well as learned counsel appearing on behalf of Union of India.

In the present writ application, the petitioner seeks issuance of



appropriate direction to the respondent authorities to make payment of due amount of Rs. 9,65,840/-(rupees nine lakh sixty five thousand eight hundred and forty) to the petitioners-Society which it has incurred in running four Child Labour Schools in East Champaran district duly approved/allotted by the District Magistrate-cum-Chairman, District Child Labour Project Society, East Champaran, Motihari.

The contention of the petitioners is that the petitioner No. 1, the Society, having been registered under the Societies Registration Act, 1960 had entered into an agreement in pursuance of a Letter No. 321 dated 07.08.2007, issued by the Assistant Director, Social Security Cell-cum-Project Director, District Child Labour Project Society, East Champaran, Motihari. Subsequently, the petitioners' Society was informed that the Assistant Director, Social Security Cell-cum-Project Director, District Child Labour Project Society, East Champaran, Motihari vide its Memo No. 328 dated 11.08.2007 had allotted four Child Labour Schools in two blocks of the district. Subsequently, the workshop was also organized on 13.08.2007 by the District Child Labour Project Society, East Champaran, Motihari, wherein the modality for running the child labour school was discussed. The estimated cost to be incurred in running the schools was also discussed at the workshop. It was also decided that the



N.S.C./bank guarantee was to be decided by the N.G.O. concerned at the time of agreement which would be kept as the reserve amount and return to the concerned N.G.O. after completion of the school tenure. The petitioner after having completed all formalities was finally allotted work for Rs. 3,91,040/- (Three lakh ninety-one thousand and forty) vide Memo No. 38 dated 05.02.2008. Again, the petitioner's Society was allotted a further work of two lakhs only vide Memo No. 521 dated 13.08.2008.

After having worked for the project during the period, the petitioner made representation to the District Magistrate-cum-Chairman, District Child Labour Project Society, East Champaran, Motihari on 13.03.2009 stating that they have demanded payment for the work done by them and the amount due being Rs. 6,39,690/- (rupees six lakh thirty-nine thousand six hundred ninety) had not been paid for the past three months despite having submitted all formalities. It was further submitted in the said letter that the due amount had further increased to Rs. 8,81,240/- till 28.02.2009 and requested the District Magistrate to make payment of the same. As such, it requested for payments to be released as the same was required for making payment to the teachers and staffs and also to meet other expenses. It was after making such representations which were duly supported by the audit report of the year 2008-09 and the Utility



Certificate to the Assistant Director, Social Security Cell-cum-Project Director, District Child Labour Project Society, East Champaran, Motihari which remained unpaid, that the petitioner was constrained to move this Court for redressal of his grievance. It was also averred by the writ petitioner that N.S.C. deposits of rupees fifty thousand has also been made with the respondent authorities which is still lying with them till the hearing of the present writ application.

Accordingly, the petitioner prays that the amounts, due to the petitioner for having participated in the scheme, be released in his favour and also the security amount which stands deposited with them, be refunded.

Two sets of counter affidavit have been filed by the respondents-State as well as the Union of India.

The State of Bihar through the District Magistrate who is also the Chairman, District Child Labour Project Society, East Champaran, Motihari and also the affidavit made by the Labour Department, clearly submits that the petitioner has worked under the aforesaid scheme and has performed his duties and his bills and Utilization Certificate has been forwarded to the Union of India as required by the Union of India has been sent forthwith. But appropriate direction for payments could not be made for want of the necessary instruction from the Union of India.



In support of the said contentions, the State Government has produced certain documents which go to reveal that the annual progress Report for the year 2008-09 as also the bills and utilization certificates of the aforesaid year have been forwarded to the Union of India duly prepared by the Chartered Accountant and countersigned by the District Magistrate which was the manner prescribed by the Union of India. He thus submits that the State of Bihar having not received any such instruction from the Union of India could not have released the payment to the petitioner.

In this context, the petitioner has brought on record Letter No. 3 dated 01.01.2012 and also letter No. 33 dated 11.09.2012, one addressed to the Labour Commissioner, Bihar, Patna and the second to the Joint Secretary, Ministry of Labour and Employment, National Child Labour Project, Government of India, New Delhi. In these letters, the State of Bihar has clearly asked for release of the rest amount so that the schools which were functioning under the aforementioned scheme could be paid their legitimate dues. Accordingly, it has been submitted by learned counsel for the State that having not received any instructions thereafter, the State Respondents were unable to release the payments to the petitioner.

Learned counsel for the Union India has also referred to the averments made in the counter affidavit filed by them. In their



counter affidavit as has been pointed out by the learned counsel appearing on behalf of the Union of India, the sole contention is that while money was released in favour of the State for undertaking and completing the projects approved and sanctioned by the Union of India, the State was required to furnish to the Union of India certain documents like the project report and also the utilization certificate which was to have been duly signed/countersigned by the Auditor and the State functionaries with regard to the utilization certificate of funds of the scheme. Learned counsel for the Union of India has drawn my attention to certain documents which relates to non-supply of such utilization certificate by the State which has resulted in not releasing of payments.

I have heard the learned counsels at length. The admitted position is that in pursuance of the agreement arrived at between the district officials, who were responsible for implementation of the scheme of the Central Government, the Society performed its duty and had conducted and organized the scheme as has been agreed upon by them. It is no where, the case of the respondents that the petitioner has not worked. Thus, the bill as claimed by them, is to be paid to them.

The further contention advanced by the learned counsel for the Union of India as referred to vide several annexures appended to



the counter affidavit seems to be of the period 2005-06, 2006-07 whereas in the present writ application, the petitioner has admittedly worked between the period 2008-09 and part of 2009-10. Thus, those Annexures as pointed out by the Union of India do not hold any relevance and are aimed at prevaricating from the issue at hand.

I have also perused the documents as annexed by the State Respondents, who have drawn my attention to Annexure-B series which shows the Progress report for the period 2006-07, 2007-08 and also 2008-09.

Learned counsel for the State has also drawn my attention to the utilization certificate filed by them and sent to the respondent and Union of India for necessary directions in the year 2009 itself. It also appears that the said utilization certificate was prepared by the Auditor and duly signed by the Additional Collector, East Champaran, Motihari as also the District Magistrate, East Champaran, Motihari. Thus, there was no laches on the part of the State authorities in submitting the necessary papers for further action and instructions from the Union of India.

In view of the aforementioned facts and circumstances and the stand taken by the respondents in their affidavits, this Court finds and holds that the petitioner was duly entitled to payment of his admitted dues and the State respondents ought to have released the



same at the earliest without entering into any controversy of the nature as has been stated in the counter affidavits. It is further made clear that the petitioner's security amount also stands deposited and the petitioner has been seriously prejudiced on this count also.

It is thus directed that the respondents, which includes State Government as well as the Union of India, should take necessary steps for releasing of the entire dues of the petitioner for the bills as have been stated by him in his representation dated 21.08.2012 (annexure-15) within a period of six months from the date of receipt/production of a copy of this order.

It is made clear that in view of the fact that the laches were squarely on the part of the authorities, the petitioner is also entitled to payment of interest on the then prevalent market rate. The said amount should be calculated forthwith by the respondents and paid to him within the aforesaid period.

It is also made clear that the security deposit in the shape of N.S.C. must also be refunded to him simultaneously.

With the above direction, the present writ application stands allowed.

(Anjana Mishra, J)

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