

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18422 of 2016

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1. Ramsharan Priyavatsalam Son of Late Professor Babu Lal Roy Resident of
Nandlal Tola, Nehru Chowk, P.O. and P.S. Chappra, District Saran at Chapra

.... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railways, Hajipur
2. The General Manager, East Central Railways, Hajipur
3. The Divisional Railways Manager (Engineering), East Central Railways,
Sonepur
4. The Divisional Engineer, East Central Railways, Sonepur
5. The Senior Divisional Engineer (Line), East Central Railways, Sonepur
6. The Senior Section Engineer (Works), East Central Railways, Hajipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akashdeep, Advocate

For the Railways : Mr. D.K. Sinha, Sr. Advocate

Mr. Satyendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 15-05-2017

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

In the present writ petition, petitioner is challenging the
order dated 26/27.7.2016 issued under the signature of the
Divisional Railways Manager (Engineering), East Central
Railways, Sonepur (respondent no.3) by which he has rejected
the claim of the petitioner. Petitioner further prays for a direction
to fresh re-measurement and pay the final amount.

In the present case the dispute relates to payment to the
petitioner as it appears that petitioner has been allotted the work
for providing minimum infrastructure facilities at 18 Level
Crossings between Jahipur-Chapra. As has been claimed that he



has completed the works in terms of the agreement. For final payment measurement has been made but certain area of difference with respect to execution of work is appearing which is cause of non-payment of money for the work as has been claimed to have been carried out in terms of the agreement.

Learned counsel for the petitioner submits that the nature of work which was allotted to the petitioner includes earth work and track coat and other connected works for carrying out the nature as stated in the agreement.

The petitioner has approached this Court vide C.W.J.C. No. 11943 of 2015 and this Court has disposed of the matter vide order dated 22.9.2015 giving liberty to the petitioner to approach before the Divisional Engineer, East Central Railways, Sonapur (respondent no.4) with a fresh representation who will examine the matter and take steps for payment of the admitted dues of the petitioner within a period of six weeks from the date of receipt/production of a copy of this judgment.

In pursuance thereof the petitioner was asked vide letter dated 12/13.10.2015 by the Divisional Railway Manager (Engineering) calling upon him to submit details of his objection with respect to final bill but reason of difference has not been shown to him. It has further been mentioned in the letter that he should present himself and show the area of difference if



there was need of re-measurement which would be carried out. Petitioner has filed representation on 13.10.2015 wherein it has been mentioned that the payment has to be made with respect to certain work which was part of the agreement and certain work was not part of the agreement. Thereafter he has again filed representation giving details of the work done by him and as has been claimed by the petitioner but without looking to his objection the Divisional Manager, Railway, Sonapur on 26.7.2016 wrote a letter to the petitioner wherein it has been mentioned that in terms of the order of this Court the Railway is ready to make payment of Rs.32,11,912/- and rest Rs.15,88,088/- is not obliged to be paid to him. It has further been said that after re-measurement the amount has been enhanced at Rs.1,91,121/-, and has requested the petitioner to present himself and receive the amount and if there is any dispute and if there is any need for re-measurement will be done accordingly. Later on it appears that the authority has passed the order on 16.6.2016 there in certain items it has been recorded that petitioner has either not worked or it was not the part of the agreement.

Learned counsel for the petitioner submits that measurement that has been attached to the counter affidavit itself discloses the incorrect statement of the railway reflects from its own record and the plea that petitioner is not entitled is



completely not sustainable in law as well as on facts.

The question of non-payment is linked with non-execution of certain work , is a disputed question of fact. The petitioner, if so advised, he may present himself to the Divisional Manager Railway if so advised, he may take money under protest and show him from measurement which part of the payment has not been made and if the petitioner is able to show that certain part of work mentioned in the agreement has been done and payment has not been made and there is disagreement with the petitioner and railway the Divisional Manager will authorize the competent person for re-measurement and re-measurement will be done of that part in presence of the petitioner. If the petitioner again is not satisfied he will be at liberty to settle the dispute approaching before the competent court of law.

With the aforesaid observation this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.5.2017
Transmission Date	NA

