

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9233 of 2015

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M/s Subodh Kumar through its partner Braj Kishore Singh son of Late Nathuni Singh Resident of Mohalla- A/81 Police Colony Anishabad, Police Station- Gardanibagh, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Building Construction , Govt. of Bihar, Vishweswaraiya Bhawan, Patna.
2. The Special Secretary, Department of Building Construction, Govt. of Bihar, Vishweswaraiya Bhawan, Patna.
3. The Deputy Secretary , Department of Building Construction, Govt. of Bihar, Vishweswaraiya Bhawan , Patna.
4. The Chief Engineer (South Bihar Circle), Building Construction Department , Patna.
5. The Superintendent Engineer (South Bihar Circle) Building Construction Department , Patna.
6. The Executive Engineer, Patna Building Division, Building Construction Department, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Aditya Narain Singh, Adv
Mr. Kundan Kumar Sinha, Adv

For the Respondent/s : Mr. Md N.H.Khan, SC 01
Mr. Md. Harun Quaresht, AC to SC 01

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-08-2018

The present writ petition has been filed for the following reliefs –

- (i) The respondent Special Secretary, Department of Building Construction, Bihar, Patna (Respondent No. 2) be directed to sanction and pay the



admitted dues of Rs. 5,85,320/- to the petitioner for which the Executive Engineer, Department of Road Construction Division, Patna vide his letter no. 8855 dated 11.12.2014, requested the respondent no. 2 to sanction the said amount, so that the admitted dues of Rs. 5,85,320/- be paid to the petitioner.

- (ii) The respondents further be directed to sanction and pay Rs. 11,66,000/- of the work performed by the petitioner in terms of letter no. 1274 dated 05.03.2010 issued under the signature of the Executive Engineer, Building Construction Division, Patna.
- (iii) Further be pleased to direct the respondents to pay the applicable interest amount on both mentioned dues which has not been paid to the petitioner on the pretext of the paucity of the fund.
- (iv) And other relief/reliefs as your Lordships may deem fit and proper in the facts and circumstances of the case.

2. Learned counsel for the petitioner invites reference to the



letter of the Executive Engineer dated 11.12.2014 addressed to the Special Secretary, Department of Building Construction, Government of Bihar, Patna requesting for sanction of Rs. 5,85,320/- to enable payment to be made to the petitioner. Despite several representations by the petitioner, however, the amount in question remains outstanding for payment.

3. It is further submitted that the petitioner has performed additional construction work for Rs. 11,66,000/-, payment whereof is also outstanding.

4. Learned counsel for the respondents submits that payment of Rs. 5,85,320/- could not be made owing to non-availability of fund. As regards payment of Rs. 11,66,000/- claimed by the petitioner, it is submitted that the petitioner has not produced any measurement book in support of the claim of the work which has been done by the petitioner.

5. Having heard the parties and on consideration of the materials on record, this Court is of the view that the amount of Rs. 5,85,320/- stands admitted as being due to the petitioner, but the delay in payment has been occasioned only for want of fund being sanctioned. In these circumstances, the Special Secretary, Department of Building Construction, Government of Bihar, Patna (Respondent No. 2) is directed to ensure that sufficient funds are



made available for making payment of the outstanding amount of Rs. 5,85,320/- together with 6% simple interest from the date when the amount became due for payment upto the date of actual payment to the petitioner.

6. The petitioner shall be at liberty to file appropriate representation before the Executive Engineer, Patna Building Division, Building Construction Department, Patna (Respondent No. 6) with respect to claim for payment of Rs. 11,66,000/- towards additional construction claimed to have been made. If any such representation is filed within two weeks from today, the same shall be considered and disposed of expeditiously. If upon disposal of such representation, if the amount is found admitted, the same shall also be paid to the petitioner expeditiously and in any event within a period of eight weeks from the date of filing the representation.

7. The writ petition stands disposed of as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2018
Transmission Date	NA

