

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9268 of 2017

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M/s Kumar A. S. Construction, Ashok Nagar, Bhatt Bigha, Gaya through its
Managing Partner Smt. Pramila Singh, W/o Shri Anuj Kumar Singh, Resident
of Mohalla- Ashok Nagar, Bhatt Bigha, Gaya, P.S. Rampur, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Rural Works Department,
Government of Bihar, Patna.
2. The Engineer in Chief Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer-1, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Work Circle- Gaya
District- Gaya.
5. The Executive Engineer, Rural Works Department, Gaya Division, District-
Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashok Kumar Dubey
Mrs. Mamta Vijaya,
Miss Anushree, Advocates

For the Respondents : Mr. Ajay -GA5
Mr. A. C. Lal, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-07-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

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

*“(i) For issuance of an appropriate writ/writs,
order/orders and/or direction/directions for issuance of
writ in the nature of mandamus commanding the
respondents to revise the rate as per at present market
rate and to provide free sites of roads as-well-as
appropriate specific extension of period of time from the*



*date of further work order for constructing of 4 roads i.e. (i) **Punakala-Kasthua Road to Baigoman**, (ii) **Ahiyapur-Guraru Road to Palki Sultan**, (iii) **Nauwa Bigha to Azad Bigha** and (iv) **Bakraur to Ratnara Ganga** of package no. BR-12R-V under the 'Pradhan Mantri Gramin Sadak Yojna' (herein referred as PMSGY) which was allotted in the year 2011 to the petitioner and out of said 4 roads, 3 were dropped while 1 was to be dropped since long back by the Executive Engineer Rural Works Division, Gaya himself due to land dispute.*

Or

*Alternating prayer of petitioner to quash the letter no. 711 dated 15.04.2017 (Annexure-16) issued by Executive Engineer, Rural Works Department, Gaya Division, District Gaya by which the petitioner has been threatened for blacklisting the registration of contract for not starting and completing the construction of road from **Punakala-Kasthua Road to Baigoman** of said package and letter no. 1465, dated 17.10.2016 (Annexure-7), letter no. 1619, dated 12.11.2016, letter no. 1620 dated 12.11.2016 and letter no. 1621 dated 12.11.2016 (Annexure-10 Series) issued by same Executive Engineer by which the petitioner was directed to complete the construction of said roads i.e. (i) **Punakala-Kasthua Road to Baigoman**, (ii) **Ahiyapur-Guraru Road to Palki Sultan**, (iii) **Nauwa Bigha to Azad Bigha** and (iv) **Bakraur to Ratnara Ganga** respectively.*

And

For issuance of direction to close the construction of said roads from the agreement dated 14.02.2011 which was



executed by the Executive engineer, Rural Works Department, Gaya Division with petitioner.

(ii) For issuance of direction to the respondent concerned not to take any coercive action against the petitioner in the garb of non-compliance of directions contained in letter no. 1465, dated 17.10.2016 (Annexure-7), letter no. 1619, dated 12.11.2016, letter no. 1620 dated 12.11.2016 & letter No. 1621 dated 12.11.2016 (Annexure-10 Series) as the said direction has been given to the petitioner after long gaping of years to complete the construction of three dropped roads and one to be dropped road without providing revised rate as per at present market rate and free sight as-well-as specific adequate extensions of period of time.

(iii) For any other relief reliefs for which the petitioner is entitled in the eye of law.”

3. Learned counsel for the petitioner at the very outset, in the backdrop of the counter affidavit filed on behalf of respondent nos. 1 to 5, accepts that out of 16 roads to be constructed by it, 11 roads have admittedly been constructed and out of 5 remaining roads, 4 roads were dropped and the agreements foreclosed. A dispute remains with regard to one road, namely, Nauwa Bigha to Azad Bigha which was earlier proposed to be dropped but by letter no. 1620 dated 12.11.2016, the petitioner has been directed to commence the work and complete the work of the said road.

4. It is the petitioner's contention that considering that the



agreement was entered into in the year 2011, the detailed project report requires to be revised and/or agreement in this regard be foreclosed.

5. This Court is of the view that considering that the dispute arises out of the contract entered into between the parties, it would be appropriate if the petitioner is granted liberty to approach the Bihar Public Works Contracts Disputes Arbitration Tribunal, Patna within a period of four weeks from today, for resolution of the said dispute between the parties.

6. The writ petition stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.07.2018
Transmission Date	N.A.

