

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 4236 of 2008

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Subhash Prasad Singh, son of Late Bhagwan Singh, resident of village Chhatna,
P.S. Parsa Bazar, Dist. Patna.

.... Petitioner

Versus

1. The Union of India through the General Manager, East Central Railway, Hazipur.
2. The Divisional Regional Manager, East Central Railway, Danapur.
3. The Divisional Engineer, East Central Railway, Danapur.
4. The Deputy Chief Engineer (Construction), Danapur
5. The Deputy Chief Engineer (Construction), Ganga Bridge, Danapur
6. The Assistant Engineer, East Central Railway, Patna.
7. The Inspector Works (IOW), East Central Railway, Jehanabad

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Dinesh Choudhary, Advocate

For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-03-2018

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

- (i) For commanding and directing the concerned respondents to issue acceptance letter along with work order for Tender Notice No. 4 of 2004-05 in which the petitioner is the lowest tenderer after negotiation with Tender Committees on the current schedule rate.
- (ii) For further commanding and directing concerned respondent to make payment of Rs.



10,73,011.90 against the construction of approach road which was done in pursuance of the Tender Notice No. 4 of 2004-05.

(iii) To pass such any other order or orders for which the petitioner is entitled to get in the facts and circumstances of this case.

2. It is submitted on behalf of the petitioner that on the verbal order of the Deputy Chief Engineer (Construction), D.C.R. the petitioner started construction of the approach road in anticipation of the acceptance letter. The petitioner constructed the approach road for a total work value of Rs. 10,73,011.90 in the month of April, 2005, but payment for the same has not been made.

3. Learned counsel for the respondents on the other hand vehemently opposes the writ petition and submits on the basis of the counter affidavit that the work was deleted from the pink book and no acceptance letter to the petitioner could be issued. Specific denial has been made in the counter affidavit with regard to any instruction having been given to the petitioner for construction of the approach road and attention in this regard is invited to the letter dated 24.06.2007 (Annexure-B). The claim of the petitioner having completed the aforesaid work for a total value of Rs. 10,73,011.90 has been denied.

4. Having heard the parties and on consideration of the



materials on record this Court is not inclined to interfere in the matter.

5. The averments in the writ petition with regard to the petitioner having constructed the approach road has however, been denied in the counter affidavit, but no rejoinder thereto has been filed on behalf of the petitioner. The issues in the instant writ petition therefore involve disputed questions of fact which cannot be decided by this Court in its extraordinary writ jurisdiction.

6. At this stage, learned counsel for the petitioner makes an oral prayer to be granted an opportunity to approach the respondent for refund of his earnest money.

7. The writ petition accordingly stands dismissed with liberty to the petitioner to file an appropriate representation before the respondents for refund of the earnest money.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2018
Transmission Date	NA

