

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11670 of 2017

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Manoj Kumar, Son of Shri Dukhilal Gupta, resident of Mohalla Mohaddi Nagar
Amber, Bihar Sharif, P.S.- Bihar, District- Nalanda.

.... Petitioner/s

Versus

1. The Union of India through the Secretary Archaeological Survey of India Govt. of India, New Delhi.
2. The Superintending Archaeologist, Archaeological Survey of India Govt. of India Patna Circle, J. C Road, Anta Ghat, Patna.
3. The Sr C.A. Archaeological Survey of India, Sub Circle, Antichak, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Prasad, Adv
For the Respondent/s : Mr. S.D SANJAY, ADDL. SOC. GEN.
Mr. R.K.Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-07-2018

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

- (i) *For quashing the order issued by the Superintending Archaeologist, Archaeological Survey of India, Patna Circle vide letter Misc. No. 3/91/SR(P)/15-16 Work-1865 dated 02.08.2016 whereby and whereunder after lapse of one year from supplied material he has cancelled the supply order 3/91/SR(P)/15-16- WORK-140 dated 22.04.2016 and forfeited the earnest money.*
- (ii) *For direction to the respondent authorities to make payment of Rs. 7,59,429/- with statutory interest to the petitioner against supply of the*



materials according to the agreement made on 09.08.2016 between the Superintending Archaeologist, Archaeological Survey of India and the petitioner.

(iii) For direction to the respondents for restraining any action in the light of tender notice published in newspaper dated 04.08.2017 whereby without payment of the said amount to the petitioner for the supply of same material a fresh tender has been invited.

(iv) For any order/direction in the interest of justice may be passed in the facts and circumstances of the case.

2. Learned counsel for the petitioner submits that work order dated 22.04.2016 was issued in his favour for supplying five items namely, (1) Coarse sand, (2) Stone Aggregate (20 to 25mm), (3) Random Rubble Stone (25cm x 25cm x 25 cm), (4) U/s Lime and (5) Brick bats (40 to 50mm) within 21 days of the supply order.

3. It is stated that admittedly in terms of the Department's letter no. 2115 dated 11.08.2016 (Annexure-3), 30% of the supply had been made and request for extension of time was under consideration. The time was duly extended by letter dated 17.08.2016 (Annexure-4) and supplies were required to be made by 25.08.2016. It is submitted that without any further notice however, the work order was cancelled by the impugned order dated 02.08.2017 and the petitioner was made to forfeit the amount of security.

4. Learned counsel for the respondents, on the other hand, resists the writ petition, submitting that the petitioner has sought to mislead this Court. The case sought to be made out a case before this



Court that 30% of the supply had been made as acknowledged in letter no. 2115 dated 11.08.2016 (Annexure-3) is wholly incorrect. As a matter of fact this letter related to some other contract. The letter relevant to the present work order was brought on record by the respondents as letter no. 2056 dated 05.08.2016 (Annexure-R/4) which shows that no supply whatsoever had been made by the petitioner within the stipulated time of 21 days from the work order namely, 22.04.2016. It is further pointed out that sufficient notice had been granted to the petitioner in terms of letter dated 30.12.2016 (Annexure-5) as well as dated 08.03.2017 (Annexure-R/7). As such the contention of the petitioner that the impugned order has been passed without proper opportunity is on the face of it incorrect.

5. Having heard the parties and on consideration of the materials on record, this Court finds no infirmity in the action taken by the respondents for cancellation of the work order and in directing forfeiture of the security. The letter dated 30.12.2016 (Annexure-5) discloses that objection was raised by the respondents with regard to supply of random rubble stone and brick bats as these were not in accordance with the work order, which led to the impugned order of cancellation of the work order. I am therefore not inclined to interfere in this regard.

6. However, no objection has been raised by the respondents with regard to supply of the remaining items such as, coarse sand, stone aggregate and u/s lime. As such there appears little reason for the respondents to withhold payment in respect of supplies made in accordance with the work order.

7. In the above circumstances, therefore, the writ petition is disposed of, granting liberty to the petitioner to approach the Superintending Archaeologist, Archaeological Survey of India, Government of India, Patna Circle (Respondent No. 2) with a



representation for making payment in respect of supply of coarse sand, stone aggregate and u/s lime. If any such representation is filed within two weeks from today, the same shall be disposed of on its own merits in accordance with law.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2018
Transmission Date	NA

