IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14137 of 2015

MRK Associates, Chartered Accountants, through its Partner Satish Kumar, Resident of Sishu Vikas Vidyalaya, Indira Nagar, Road No.-1, G.P.O.-Patna-800001.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Department of Rural Development, Bihar through its Secretary.
3. The Secretary, the Department of Rural Development, Bihar.
4. The Principal Secretary, the Department of Rural Development, Bihar.
5. The Director, Accounts and Administration, Muzaffarpur.
6. The District Magistrate, Muzaffarpur.
7. The Deputy Development Commissioner (DRDA), Muzaffarpur.
8. Senior Accounts Officer, DRDA, Muzaffarpur.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok, Adv.
For the Respondent/s	:	Mr. Prabhat Kumar Singh, SC-12

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 05-12-2018

The present writ petition has been filed by the MRK Associates, Chartered Accountants, who were entrusted with the task of auditing the functioning of the MANREGA Scheme under District Rural Development Agency *(in short the DRDA)* for the financial year 2011-2012 for a direction for the payment of their admissible fee raised for the work done by them.

2. It has been submitted on behalf of the

petitioner that for no apparent fault of theirs, their fee has been slashed by 50%. It has further been submitted that the objection raised by the respondents that the audit report submitted by the petitioner was faulty is incorrect as it is based on the inputs which were given to them by the functionaries of the MANREGA. It has also been submitted that the delay in submitting the report, which has been taken as a ground for withholding 50% of the admissible fee of the petitioner, was not on account of any fault on their part, but because necessary materials were not provided to them within time.

3. In response to the aforesaid submissions made on behalf of the petitioner, the learned counsel for the State has stated that the prayer of the petitioner is misconceived in as much as right from the beginning, the petitioner displayed a reckless/irrsponsible approach. Because of the delayed/defective report submitted by the petitioner, necessary funds for the following year was not released by the government. The defects were pointed out to the petitioner, but no effort was made by them to rectify

the same.

4. This Court is afraid, it would be difficult to decide in the present writ proceeding whether the report submitted by the petitioner, in their capacity as Chartered Accountants, was defect free and whether it should have been accepted by the State in its totality or the correctness of the version of the State that it was a defective report and that only because of the faulty auditing by the petitioner, necessary funds for the following year could not be released, as these are questions of facts, which would be beyond the pale/domain of consideration of this Court.

5. However, taking into account the statement in the counter affidavit that if the defects pointed out in the audit report is rectified by the petitioner, the DRDA, Muzaffarpur shall pay the rest 50% of the admissible fee to the petitioner, this Court directs the petitioner to take necessary steps for rectifying the audit report. For the aforesaid, facility shall be provided to the petitioner by the DRDA, Muzaffarpur. In case, the defects in the audit report are removed within a period of three months, it would be

open for the petitioner to approach the DRDA, Muzaffarpur for payment of the balance 50% of the fee, which, according to them, is admissible. In case, no order is passed by the DRDA, Muzaffarpur, the petitioner would be at liberty to approach the Secretary, Department of Rural Development, Bihar. If such a representation is filed along with a self-certification of the petitioner that all the defects pointed out in the audit report for the financial year 2011-12 has been rectified and yet the admissible fee is not being paid, the Secretary, Department of Rural Development, Bihar shall pass necessary orders after taking into account the views of the DRDA, Muzaffarpur and other authorities who would, otherwise, be affected by the quality of the report submitted by the petitioner.

6. With the aforesaid observation and direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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