

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1462 of 2017**

**In**  
**Civil Writ Jurisdiction Case No.23598 of 2012**

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1. The State of Bihar through, the Principal Secretary, Public Work Department, State of Bihar, Patna.
  2. The Engineer-in-Chief, Public Works Department, Bihar, Patna.
  3. The Chief Engineer, East Bihar Road Circle, Road Division, Bhagalpur.
  4. The Executive Engineer, Road Division, Bhagalpur.
  5. The Superintending Engineer, Road Division, Bhagalpur.

... .. Appellants

Versus

M/s Rungta Enterprises through its Proprietor Mahesh Kumar Rungta, At-  
Kahalgau, P.S.- Kahalgau, District- Bhagalpur.

... .. Respondent

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**Appearance :**

For the Appellant/s : Mr. Krishna Kant Singh (A.C. To S.C 10)  
For the Respondent/s : Mr. Swapnil Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**and**

**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 03-12-2018**

Heard Mr. Krishna Kant Singh, learned counsel  
appearing for the appellants and Mr. Swapnil Kumar Singh,  
learned counsel appearing for respondent.

This Intra-Court Appeal arises from the judgment and  
order dated 10.05.2017 passed by learned Single Judge in CWJC  
No. 23598/2012, whereby the writ petition was allowed and the  
order dated 08.11.2012, whereby a penalty of Rs. 12.9 Lacs was  
imposed on the writ petitioner for delayed completion of the  
allotted work of widening and strengthening of Trimuhan –



Ekchari – Dhanoura – Mahagama road in the district of Bhagalpur, was quashed and set aside.

It is the submission of Mr. Singh learned State Counsel, while seriously defending the order impugned in the writ petition that it is the delayed execution of the work by the writ petitioner that left no option for the State through Executive Engineer but to impose exemplary cost of Rs. 12.9 Lacs on the writ petitioner and since the bill payment in respect of the work executed had already been made, the only option available was to recover it from the security deposit.

In our opinion, the submissions made by Mr. Singh itself gives reasons for dismissal of the appeal for once the respondent State in its Rural Works Department have made payment of the bills of the contractor obviously after recording satisfaction on every aspect, the imposition of penalty becomes a case of arbitrary exercise. It is rather strange that while the penalty is sought to be imposed on grounds of not executing the work within time but it is a matter of record that it is taking note of the unavoidable circumstances which delayed the project that the State in its Public Works Department accepted the request of the petitioner to extend the period of completion of project and the work was completed in the extended period.



In our opinion, the State cannot adopt extra constitutional methods for raising revenue. Learned Single Judge has allowed the prayer of the petitioner on examination of the matter in consideration of the materials on record.

We find no merit in the appeal which is dismissed accordingly.

I.A. No. 7561 of 2017 is disposed of.

**(Jyoti Saran, J)**

**( Rajeev Ranjan Prasad, J)**

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