

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12749 of 2017

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Prem Pratap Ray, S/o Sri Ram Pratap Ray, R/o Ray Bhavan, Jai Mahavir Colony,
Bazar Samiti, Mahendru, Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Deptt.
2. The State of Bihar through the Chairman cum Managing Director, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna-4.
3. The Chief Engineer, Bihar Police Building Construction Corporation, Kautilya Nagar, Baily Road, Patna-4.
4. The Finance Advisor cum Chief Account Officer, Bihar Police Building Construction Corporation, Kautilya Nagar, Baily Road, Patna-4.
5. The Executive Engineer, Bihar Police Building Construction Corporation, Muzaffarpur Division Camp-Hajipur.
6. The Executive Engineer, Bihar Police Building Construction Corporation, Patna Division, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Ms. Usha Kumari, Adv

For the Respondent/s : Mr. MD.N.H.KHAN -SC1

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-01-2018

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

- (i) For issuance of a writ in the nature of mandamus commanding the respondents to pay the admitted interest amount against holding period of EMD/B.G. of Rs. 10,92,000/- which was submitted in NIT No. 5, Work No.1 and 6 and NIT No. 3, Work No. 6 and 10, total four



tenders which were all disqualified by the respondents deliberately but after expiry of 28 days the respondents did not return EMD to the petitioner even the petitioner demanded so many times to return EMD, but the same was not deliberately returned for which the petitioner is entitled for interest @ 14% against holding kept period of EMD. Moreover, the petitioner participated in four tenders invited by respondents by arranging the fund/EMD from the Bank and market on commercial interests(compounding) @ 14%, hence the petitioner may be justifiably required to be paid the above interest as prayed, and after so many request of the petitioner EMD was not returned and the respondents have been sitting tight over the file and petition. However, the respondents may not escape from payment of interest to the petitioner over such a delayed period of EMD returned.

- (ii) For directing the respondents to pay the amount of interest against return delayed period of EMD which was submitted in tenders.



- (iii) For directing the respondents to pay the interest within a fortnight from the date of the order of the Hon'ble Court taking into consideration that at one hand they are withholding the EMD of Rs. 10,92,000/- and such amount stand dues with respondents and on the other hand the respondent has not returned the EMD after expiry of 28 days as per SBD Clause 16.4, which has caused loss of lacs of rupees to the petitioner, and since the respondents have deliberately not returned, as such they are liable to pay the interest amount with interest as prayed with minimum 14% interest, which may be just and equitable in the particular facts and circumstances of the case.
- (iv) For directing the respondents/State authorities to take cognizance seriously for the payment of interest to the petitioner for which the petitioner is entitled under the SBD clause which is likely to be returned by the State respondents for delay of the other contractual works, till the entire interest is not paid, as due to their deliberate laches, the payment of such



huge amount is delayed, for which the petitioner cannot be penalized.

(v) For granting any other relief/reliefs for which the petitioner may be found entitled in the eye of law.

2. At the very outset, learned counsel for the petitioner submits that it will suffice if the petitioner's representation dated 27.07.2016(Annexure-4) filed before the Executive Engineer, Bihar Police Building Construction Corporation, Muzaffarpur Division Camp-Hajipur (Respondent No. 5) is directed to be disposed of, in which event, the present writ petition need not be pressed on merits.

3. Learned counsel for the respondents appears and has been heard.

4. Having regard to the nature of the grievances and the stand of the petitioner, the present writ petition is disposed of with a direction to the Executive Engineer, Bihar Police Building Construction Corporation, Muzaffarpur Division Camp-Hajipur (Respondent No. 5) to consider and dispose of the petitioner's representation dated 27.07.2016(Annexure-4) if the same is pending before him, after grant of opportunity of hearing to the petitioner in accordance with law expeditiously and preferably within a period of eight weeks from the date of receipt/production of a copy of this judgment.

(Vikash Jain, J)



Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2018
Transmission Date	NA

