

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1871 of 2019

=====

M/s. Baba Construction through Its Proprietor Sri Shankar Jha, S/o Late Satyanarayan Jha, Resident of Sipahi Tola, Purnea, P.s.- K. Hatt, Distt.- Purnea

... .. Petitioner/s

Versus

1. The Bihar Rajya Pul Nirman Nigam Ltd. Patna-15 through its Managing Director, having office at Mangles Road, Patna
2. The Managing Director, Bihar Rajya Pul Nirman Nigam Ltd., Mangles Road, Patna-15
3. The Senior Project Engineer, Bihar Rajya Pul Nirman Nigam Ltd., Works Division, Katihar
4. The Deputy Chief Engineer, North Bihar Circle, Bihar Rajya Pul Nirman Nigam, Patna, having office at Mangles Road, Patna-15.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Kamal Nayan Choubey, Sr.Adv. Mr. Dineshwar Pandey, Adv. Mr. Animesh Kumar, Adv. Ms. Ritupriyadarshani, Adv. Mr. Prashant Kumar, Adv.
For the Respondent/s	:	Mr. Vikas Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 26-02-2019 Heard learned senior counsel for the petitioner and learned counsel representing the Bihar Rajya Pul Nirman Nigam Ltd.

Petitioner has moved this Court seeking various reliefs, the main relief claimed is towards damages amounting to Rs.8,03,54,824/-. The petitioner submits before this Court that the work in question was allotted to the petitioner without completing the land acquisition process, therefore in absence of availability of the land, the work could not be completed.



Learned senior counsel for the petitioner has drawn the attention of this Court towards Annexure-4, as contained in memo no.828 dated 20.09.2017, to show that the land dispute is one of the reasons for non-completion of the work. It is further submitted before this Court that there are some admitted dues of the petitioner which have not been paid and as the petitioner has completed some work he would be entitled for payment.

Contesting the submissions of learned senior counsel for the petitioner, learned counsel representing the Bihar Rajya Pul Nirman Nigam Ltd. submits that it is the petitioner who is responsible for non-completion of work. It is further submitted that so far as the Bihar Rajya Pul Nirman Nigam Ltd. is concerned, no admitted dues is lying with the Corporation. An objection has been taken as to the entertainment of the writ application on the ground that the dispute, if any, between the petitioner and the Corporation in the context of the works contract would be an arbitrable dispute. It is submitted that the remedy of the petitioner lies before the Bihar Public Works Contracts Disputes Arbitration Tribunal and not before this Court.

Having heard learned senior counsel for the petitioner and learned counsel representing the Bihar Rajya Pul Nirman



Nigam Ltd., this Court is of the considered opinion that since the dispute has arisen out of a works contract between the petitioner and a public sector undertaking of the government of Bihar, in terms of the provisions contained in Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2009, the dispute would be an Arbitral dispute before the Tribunal. Whether the petitioner is entitled for damages and compensation may be decided by the Tribunal alone after receiving evidences on behalf of the parties. This Court sitting in its writ jurisdiction under Article 226 of the Constitution of India is not in a position to act as a fact finding court that too when the remedy of arbitral tribunal is there.

In the given facts and circumstances of the case, the writ application is being disposed off with a liberty to the petitioner to approach the the Tribunal, if so advised, within a period of thirty days from today and seek his remedy there in accordance with law. So far as claim for payment of admitted dues is concerned, since the learned counsel for the Bihar Rajya Pul Nirman Nigam Ltd. has taken a stand that there is no admitted dues, this Court does not find any reason to issue any direction. However, the same will not be taken as a rejection of the claim at the end of this Court. All such issues including the



claim for payment will be open for the petitioner to be agitated
before the Tribunal.

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

