

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14745 of 2018

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Nishant Kumar, son of Shri Birendra Kumar, resident of Pachmahala,
Jalalpur, P.O. Jalalpur, P.S. - Marachi, District – Patna.

... .. Petitioner

Versus

1. The State of Bihar The Secretary Rural Works Department,
Bishweshwariya Bhawan, Bihar, Patna.
2. Engineer-in-Chief, Rural Works Department, Bishweshwariya Bhawan,
Bihar, Patna.
3. The Superintending Engineer, Rural Works Department, Works Circle,
Samastipur.
4. The Executive Engineer, Rural Works Department, Works Division, Ballia,
Begusarai.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Giri, Advocate
For the Respondent/s : Mr. Satyeshwar Prasad AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 29-03-2019 Petitioner in the present case is looking for a direction

to the respondent authorities to pay the admitted dues of Rs.

40,52,753.63 (Rs. Forty Lakhs Fifty Two Thousand Seven

Hundred Fifty Three and Sixty Three Paise only) which is said

to be an amount lying pending for payment out of the revised

estimate of 291.91 lakhs. The petitioner in the writ application

has made the following statements in paragraph 12, 13 & 14:

*“12. That the petitioner submitted the revised
estimate for construction of the approach road
which was 0.240 KM in length and the cost of
construction for the same was 291.91 lakhs.
The petitioner also submitted the estimated cost
for maintenance of the bridge as well as the
approached Road which was 2.35 lakhs. The
total cost of the project including five years
maintenance and construction of approach*



Road came to Rs. 294.25 lakhs.

13. That the revised estimate was approved by the respondents and the petitioner also constructed the approach Road by raising the approach Road by filling of soil and constructing cemented Road over it. The petitioner is also looking after the maintenance of the approach Road as well as the High Level Bridge and he was paid the amount of revised estimate except the admitted dues of 40,52,753.63 (Rs. Forty Lakhs Fifty Two Thousand Seven Hundred Fifty Three and Sixty Three Paise only) for the extra approved work done by him. The petitioner craves leave of the Hon'ble Court to show the revised estimate submitted by him to respondent no.5, if required during hearing of the present application.

14. That all the revised estimate and the extra/deviation work are entered into the measurement book of the respondents and the entire measurement book regarding the extra/deviation work is approved by them meaning thereby that they approved the extra work completed by the petitioner and they are under legal obligation to pay the admitted amount of the petitioner which he spent on the extra/deviated work. The petitioner crave leave of the Hon'ble Court to show the photo copy of the relevant measurement book of the concerned work maintained by the respondents at the time of hearing of this application, if required."

Learned counsel for the State submits that presently he has not received instruction.

This court finds that the writ application is pending before this court since the month of July 2018, no counter affidavit has been filed despite notice published in the cause list



requesting the respondents to file their counter affidavit without waiting for their cases to be called out. The court has requested the parties to take this as a notice of the court. Still the counter affidavit is not filed.

In the given circumstance instead of keeping this writ application pending the court deems it just and proper to direct respondent no. 2, Secretary, Rural Works Department, Bihar, Patna to look into the grievance of the petitioner, consider the same and after examining his claim if it is found that the said amount is outstanding and is to be paid to the petitioner, the same must be paid within a period of 60 days from the date of receipt/production of a copy of this order.

In case, the claim of the petitioner either whole or in part is refused, the reason thereof shall be recorded by the respondent no. 2 and will be communicated to the petitioner within the same period.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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