

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10090 of 2018

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Akhauri Ajay Prakash Sinha @ Akhauri Ajay Prakash, S/o Late Akhauri Virendra Prakash Sinha R/o "Akhauri Kunj", Mohalla- Virat Nagar, P.S.- Aurangabad Town, and District-Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Cheif Secretary, Bihar State Govt., Patna.
3. Principal Secretary, Department of Planning and Development, Government of Bihar, Patna.
4. Joint Secretary, Deptt. of Planning and Development, Bihar State Govt., Patna.
5. District Magistrate, Buxar
6. District Planning Officer, Buxar
7. Executive Engineer Local Area Engineering Organization, Buxar Department of Planning and Development, Bihar State Govt., Buxar.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Chakrapani, Advocate Mr.Dev Kumar Pandey, Advocate
For the State	:	Mr.Sumant Kumar Singh, AC to GA-2
For the Intervenor	:	Mr.R. Griyaghey, Advocate Mr.Awadhesh Kumar Singh, Advocate Mr.Sunil Kumar, Advocate Mr.Mithilesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 05-11-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner in the present case is looking for a writ in the nature of a writ of mandamus directing the respondents-State to pay a sum of Rs. 71,19,912/- which according to the petitioner, the respondents are liable to pay under the work order issued and work agreement executed by respondent no. 7 on



26.05.2017 with the petitioner for supply and installation of four armed Semi High Mast Solar Street lights. While it is the claim of the petitioner that each Semi High Mast Light installation was approved by the District Purchase Committee at the installation and supply rate of Rs. 2,96,633/-, the respondents have come out with a stand in their counter affidavit that the said rate was approved by the District Purchase Committee by totally ignoring the guidelines and the parameters fixed by the Planning and Development Department, Government of Bihar. It is the stand of the respondents-State that the department had issued letter reference MNRE 05/23/2009-p&c (Pt iii) dated 13.05.2013 by which the rate of Solar Light fixed as Rs. 300/- per wp and at this rate the cost of Semi High Mast Solar Light system would come Rs.1,56,000/-. The another letter issued by the department is MNRE which is carrying the amendment and this letter dated 17.03.2017 has notified the fixed rate at Rs. 200/- per wp. At this rate the cost of High Mast Light would be Rs. 1,04,000/-. It is for this reason when on receipt of a complaint, an inquiry was made, the inquiry report as contained in Annexure 'C' to the counter affidavit disclosed that the rates notified by the letter aforementioned by the department has not been taken care by the District Purchase Committee. Taking



note of the inquiry report the petitioner has been paid a sum of Rs. 24,96,000/- vide Annexure 'D' to the counter affidavit.

Learned counsel for the petitioner submits that petitioner had supplied the High Mast Light on the rate fixed under an agreement and the work order, therefore, now the petitioner cannot be compelled to pay a lesser amount. It is further submitted that while conducting the inquiry and recording its opinion as contained in Annexure 'C' the Inquiry Committee had not called upon the petitioner to submit his stand.

Learned counsel for the State submits that at the district level which is District Purchase Committee who is authorized to take a decision with regard to the installation of Solar High Mast Light and while doing so if the said District Purchase Committee has ignored the rates fixed by the department and the guidelines issued under the letters aforementioned, the Government cannot be made liable to pay the amount fixed under the agreement unauthorizedly.

Having heard learned counsel for the petitioner as also learned counsel for the State, this Court is of the considered opinion that there is a serious dispute with respect to the admissibility of the claim of the petitioner and this being a



disputed claim, it would not be just and proper for this Court to exercise its extraordinary writ jurisdiction under Article 226 of the Constitution of India to enter into an inquiry and record a finding of facts and then allow the claim of the petitioner. The writ application is in the nature of pure and simple money claim and there being a dispute, without entering into the merit of the contentions of the parties, this Court refuses to entertain the writ application but with liberty to the petitioner to seek his remedy before an appropriate court/forum in a duly constituted application.

If the petitioner applies for any other remedy before a court or forum available to him and a question of limitation arises for consideration, the same will be considered keeping in view that the petitioner was pursuing his remedy before this Court under some bonafide belief and the writ application was pending while exchanging affidavits by the parties.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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