

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2022 of 2008

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Sri Krishna Singh Son of Shri Ram Ratan Singh, Resident of Mohalla- 30,
Patliputra Colony, Police Station- Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. Shashi Shekhar Sharma, Secretary-Cum- Commissioner, Public Health and Engineering Department, Government of Bihar, Patna.
2. Madan Kumar, Engineer-in-Chief, Public Health and Engineering Department, Government of Bihar, Patna.
3. The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the State : Mr. Sarvesh Kumar Singh, AAG 13 with
Mr. Shakib Ayaz, AC to AAG 13

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 01-08-2019

Heard learned counsel for the petitioner and learned
AAG 13 for the State.

2. Pursuant to order dated 18.07.2019, the Principal
Secretary, Public Health Engineering Department (hereinafter
referred to as the 'Department') is also present. A detailed show
cause has also been filed by him.

3. The controversy in the present matter relates to the
petitioner lifting 1350 Metric Tons (MTs) of scrap material which
was tendered/auctioned by the Department in the year 1994. The
matter has travelled before various authorities/Courts and the
position is that as per the initial allocation, the petitioner was given
1350 MTs, out of which he lifted 200 MTs at the relevant point of



time and, thus, 1150 MTs remained to be given. The position today is that he has further lifted about 1000 MTs and the remaining is to be given to him in terms of the Writ Court order.

4. A detailed exercise was undertaken by the Principal Secretary of the Department in terms of the last order of the Court and the position emerging is that there is 400 MTs in various godowns of the Department spread over the entire State of Bihar. However, the bone of contention being brass and gun metal, upon verification, it has been found that only 4.62 MTs is available with the Department.

5. At this juncture, learned counsel for the petitioner agrees to lifting the said quantity out of the remaining quantity which is to be lifted by him. With regard to the final figures out of 1150 MTs which the petitioner was to lift, the remaining, thus, would be around 150 metric tones. However, the actual has to be worked out between the authorities and the petitioner.

6. At this stage, the Principal Secretary of the Department fairly submitted that as per the order though they are bound to supply the remaining amount of scrap material to the petitioner, but they can only offer what is available with them. Thus, showing indulgence to the petitioner, it was submitted before the Court that the Department would be amenable to him



lifting the remaining quantity of scrap as per his choice from the materials available with the Department.

7. Learned counsel for the petitioner agrees to the proposal.

8. In view thereof, the application stands disposed off in the following terms:

(A) The petitioner would appear before the Chief Engineer, Urban, PHED, Patna and the actual amount lifted by the petitioner shall be reconciled. Such exercise shall be completed within two weeks from today.

(B) The petitioner shall lift 3.15 MTs of brass and 1.47 MTs of gunmetal within two weeks thereafter from the place(s) indicated by the Department to him.

(C) With regard to the remaining amount, the petitioner shall lift the same from his place(s) of choice within one month from the date of the figures being reconciled with regard to the actual quantity still remaining to be lifted by the petitioner. The Court would only indicate that after the initial reconciliation, the quantity of brass and gunmetal lifted by the petitioner shall obviously have to be adjusted.



(D) Once the period is over, matters would stand concluded. If the petitioner is unable to lift the quantity to be lifted by him, he shall not be entitled to lift any further.

9. The order has been passed in the presence of the Principal Secretary of the Department and the Chief Engineer with consent of learned counsel for the petitioner. The order being passed in such background, it is expected that the respective parties would sincerely discharge their duties with regard to implementation of the order.

10. Needless to say that failure to do so shall entail strict consequences for the party which is found to have disobeyed the order.

11. The Court would only indicate that with regard to the time frame indicated in the order, which may be dependent on cooperation between the sides, if any side fails to perform its part of the requirement for completing the exercise, the other side would be free to move ahead *ex parte*.

12. Personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J)

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