

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.176 of 2016

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1. State of Bihar through The Collector, Principal Secretary, Water Resources Department, 'Sinchai Bhawan', Harding Road, Patna.
 2. The Engineer-in-Chief (North), Water Resources Department, Government of Bihar, 'Water Resources Department, 'Sinchai Bhawan', Harding Road, Patna.
 3. The Chief Engineer, Water Resources Department, Siwan.
 4. The Superintending Engineer, Water Resources Department, Saran Nahar Circle, Chhapra.
 5. The Executive Engineer, Water Resources Department, Saran Nahar Canal Division, Ekma.

... .. Petitioner/s

Versus

M/s Maruti Enterprises, Partner-Abhishek Kumar, S/o Late Ashwani Kumar Verma, Resident of Mohalla- Pokhara, P.S. Town, District- Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sriram Krishna, Advocate
For the Respondent/s	:	Mr. Manish Sahay, Adv.
	:	Mr. Anil Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 24-10-2019

Heard the parties.

2. This revision petition has been filed under Section 13 of the Bihar Public Works Contract Disputes Arbitration Tribunal Act, 2008 by the State of Bihar against the order dated 10.05.2016 passed by Bihar Public Works Contract Disputes Arbitration Tribunal, Patna in reference Case No. 118 of 2015 by which Clause 10CC of the Standard Bidding Documents was held to be applicable to the agreement with claimant/opposite party and has accordingly awarded towards price adjustment an amount of Rs. 57,88,585/- with interest @



10% p.a. from the date of filing till its payment.

3. Briefly stated, the facts of the case is that claimant/opposite party had entered into agreement vide Agreement No. 1-SBD of 2011-12 for construction of Intake well, vat, pump house and supportive column of pipe carrying water for delivery of water into the Manjhi and Gobrahi sub distributary by lifting water from daha river at Tajpur at Manjhi Block under Saran District vide letter dated 08.04.2011. Claimant/opposite party after fulfilling all formalities entered into an agreement and vide letter dated 21.04.2011 issued by Executing Engineer claimant/opposite party was asked to commence the work.

4. According to claimant/opposite party they completed the work as per specification to the satisfaction of appellant/Respondent and during the course of execution of work appellant/respondent directed petitioner to execute some additional work which was also completed by the claimant/opposite party as a result of which cost of work was enhanced by 51.51% of agreement value due to extra and additional work as a result of which total cost of agreement was enhanced from Rs. 3,58,28,449 to Rs. 5,42,85,771/-. Some more time was taken to complete the execution of work and additional



work for which extension of time was granted by the Chief Engineer by letter dated 03.11.2012 till 31.01.2003 and subsequent extension was granted by letter dated 15.04.2014 till 31.01.2014 on the recommendation of all the authorities involved in the execution of work and the contract period for completion of work was extended from nine months to 35 months but authorities did not pay price escalation under clause 10CC of the Contract. The extension of time was necessitated for the reasons attributable to the authorities and other compelling reasons which were beyond the control of claimants as such claimant/opposite party was entitled for grant of price escalation under Clause 10CC of the agreement and was entitled for a sum of Rs. 57,88,585/- towards price adjustment.

5. The stand of the appellant before the tribunal was that for additional work were necessary for completing the original work which were assigned to petitioner soon after the execution of the agreement. The total cost of additional work was Rs. 3,96,132.57/- which is 1.11% of the agreement amount. Time is the essence of the contract and petitioner was bound to complete the work within the stipulated time and was responsible for delay in completion of work due to slow progress of the work. Extension of time was granted with



condition that no further claim would be acceptable. Claimant/opposite party stated that the work was completed to the satisfaction of authorities and there was no breach of contract committed by claimant.

6. The tribunal after hearing the parties held that agreement No. 01 SBD/2011-12 dated 21.04.2011 was entered between the parties and in terms of which work order was issued on 21.04.2011 and date of completion of the work was 20.01.2012. However, time extension were granted by the competent authority firstly by letter dated 03.11.2012 till 31.01.2013 and secondly, by letter dated 15.04.2014 till 31.03.2014. Initially agreement value was Rs. 3,58,28,449/- but subsequently by the order of authorities claimant had completed additional work, extra work and extra item and cost of the work was enhanced to Rs. 5,42,85,771/- i.e. increase of Rs. 1,84,57,322/- which is 51.51% of original agreement value and completion time was extended from nine months to 35 months which is more than 18 months and clause 10CC of the agreement provides grant of escalation cost if the contract period is of more than 18 months. The delay in execution of work is not attributable to claimant and no breach of contract has been committed by him, as such, adjustment amount under



Clause 10 CC of the work done being the amount of Rs. 57,88,585/- is payable to claimants towards price adjustment with simple interest @ 10 % p.a. from the date of filing of case i.e. 16.07.2015 till its realization.

7. After hearing the counsel for the parties, this Court does not find any material irregularity or jurisdictional error in the order passed by the tribunal, accordingly this revision petition is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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