

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15738 of 2013

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M/S Azad Enterprises, Through Its Proprietor, Syed Arshad Abbas Son Of
Syed Abbas Ali Hashmi Presently Residing At Usman Nagar, Nohsa,
Phulwarisharif, P.S. Phulwarisharif, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary Public Health Engineering
Department, Bihar, Patna
2. The Chief Engineer (Urban) Public Health Engineering Department Bihar,
Patna
3. The Additional Secretary, Public Healthengineering Department, Bihar, Patna
4. The Executive Engineer, Public Health Division, Patna West Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan, Adv.
For the Respondent/s : Mr.Pawan Kumar, AC to GA-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-01-2019 Learned counsel for the petitioner submits that

admittedly in the present case the petitioner has completed the

works in question prior to 28.03.2012. It is also not in dispute

that the petitioner has submitted his bills and the same had been

processed prior to 28.03.2012. Reliance in this regard is being

placed on Annexure-4 to the writ application to show that the

Assistant Engineer, Public Health Sub-Division, Sachiwalaya,

Patna had in fact sent the bills together with the measurement

book to the Executive Engineer, Public Health Division, Patna

West, Patna on 31.03.2012. Referring to paragraphs 10 and 12

of the counter affidavit filed on behalf of the respondent no.4,

learned counsel submits that there is a categorical admission in



these paragraphs to the extent that the petitioner had submitted the bills after measurement of the entire works. It is submitted that the bills have not been processed only because in the meantime memo no.794 dated 28.03.2012 came to be issued under the signature of the Chief Engineer (South), Building Construction Department, Bihar, Patna wherein all repairing work of residential and non-residential buildings within the zone of master plan for construction of residential buildings of the members of the Bihar Legislative Assembly and Bihar Legislative Council was stayed with immediate effect. Annexure-B to the counter affidavit is a copy of the office order contained in memo no.794 dated 28.03.2012.

Learned counsel further placed before this Court copies of the various orders passed by the different coordinate Benches of this Court in CWJC No.4621 of 2013, CWJC No.9724 of 2013 and CWJC No.13725 of 2013 wherein, in similar circumstance, directions have been issued to the respondent authorities to ensure that the bills of the petitioner for the work already done prior to the period 28.03.2012 are examined, processed and cleared in accordance with law. The learned coordinate Bench has also directed that the funds for that purpose be arranged and admitted amount be paid to the



petitioner positively within two months from the date of receipt/production of a copy of the order, failing which the petitioner shall be entitled to get interest @ 12% per annum which the Executive Engineer, P.H. Division, Patna West, Patna would be liable to pay from his own pocket.

Learned counsel for the State is present. Learned counsel has relied upon the statements made in the counter affidavit and submits that so far as the claim of the petitioner that he had completed the work prior to 28.03.2012 is concerned, the same is not in dispute.

In the opinion of this Court, if the petitioner had completed the work prior to 28.03.2012, there is no reason why his bills for the work completed would not be processed and the payments be not made in terms of the contract. The orders passed by the different coordinate Benches of this Court are akin to each other as there is consistent view that in all such cases the petitioner should be paid. This Court would take a similar view of the matter. The Executive Engineer, P.H. Division, Patna West, Patna (respondent no.4) is directed to complete the examination and processing of the bills of the petitioner and pay the admitted amount within a period of 60 days from the date of receipt/production of a copy of this order,



failing which the petitioner shall be entitled to get interest @ 6% per annum. If an occasion will arise to pay interest because of the delay in examination and processing of the bills, the same shall be realized from the erring officials.

The writ application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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