

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15634 of 2013

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Anil Kumar Singh Son Of Jai Shanker Prasad Singh Resident Of Village -
Pillui, P.O. + P.S. - Daudpur, District - Saran At Chapra

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Road Construction Department, Technical Secretariat, Bihar,
Patna
3. The Engineer-In-Chief, Road Construction Department, Technical Secretariat,
Patna
4. The Chief Engineer, North Bihar, Road Construction Department, Bodh Gaya
5. The Superintending Engineer, Saran Anchal, Hajipur, District - Vaishali
6. The Executive Engineer, Road Construction Department, Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Narendra Kumar

For the Respondent/s : Mr.Mahendra Pd. Verma, AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 02-01-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

The petitioner in the present is seeking quashing of
the order as contained in Annexure-7 to the writ application by
which the Executive Engineer, Road construction Division,
Chapra has rejected the claim of the petitioner without giving
any reasons in support of such rejection.

For the purpose of allowing the present writ
application learned counsel for the petitioner raises short points
for consideration. It is pointed out that earlier when this
petitioner moved this Court for direction to the respondent



authorities to pay the petitioner against the undisputed final bill of the petitioner with regard to the works contract in question, this Court directed the Executive Engineer, Road Construction Department, Chapra (respondent no. 6) to decide the claim of the petitioner by a speaking order in accordance with law within two months and if any amount is found admitted and payable, it should be paid to the petitioner immediately.

Learned counsel for the petitioner submits that pursuant to the said order of this Hon'ble Court the Executive Engineer (respondent no. 6) has passed Annexure-7. Perusal of the same would show that the order nowhere discloses application of mind on the part of the respondent no. 6. It contains no reason for rejection of the claims of the petitioner. It is thus, submitted that being a totally unreasoned order Annexure-7 is liable to be set aside.

On the other hand learned counsel representing the respondents submits that vide Annexure-B to the counter affidavit the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department has given the reasons for non-payment of the claim of the petitioner and therefore, the reasons for which the claim has been rejected may be found in Annexure-B to the counter affidavit.



Having heard learned counsel for the petitioner and learned counsel representing the State, this Court finds that the learned co-ordinate Bench of this court had passed specific order on 21.07.2011 directing the respondent no. 6 to decide the claim of the petitioner by a speaking order. Annexure-7 to the writ application is not a speaking order as no reason at all has been assigned for rejection of the claim. What has been brought on record by way of Annexure-B to the counter affidavit is in the nature of a decision taken at the level of the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department (respondent no. 3) as back as on 09.01.2008 wherein certain grounds have been prescribed and those have been disclosed as the basis for rejection of the claim of the petitioner. Apparently, this Annexure-B to the counter affidavit was not placed before the learned co-ordinate Bench of this Court when C.W.J.C. No. 10047 of 2005 was being disposed of on 21.07.2011. The impugned order (Annexure-7) is based on this order of the respondent no. 3 which was issued as back as on 09.01.2008. The endorsement made thereon nowhere shows that the order dated 09.01.2008 issued by respondent no. 3 was ever communicated to the petitioner prior to passing of the order dated 21.07.2011 in C.W.J.C. No. 10047 of 2005.



In the aforesaid circumstance, this Court is of the considered opinion that respondent no. 6 has not decided the claim of the petitioner as per direction rather he has simply acted on the basis of the order dated 09.01.2008 issued by respondent no. 3 which was not placed before the Court in the earlier round of the litigation. The order as contained in Memo No. 1534 dated 21.10.2011 (Annexure-7 to the writ application) is therefore, liable to be set aside and is accordingly set aside. The Executive Engineer (respondent no. 6) shall place the entire matter before the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department (respondent no. 3) who will now give an opportunity to the petitioner to meet the requirements, if any, for the purpose of consideration of his claim. Such information be given to the petitioner within a period of 30 days from the date of receipt/production of a copy of this order. In case the petitioner fulfills the requirements, his claim shall be considered and a reasoned order thereon shall be passed within a period of 90 days from the date of submission of the requirements. The reasoned order shall be communicated to the petitioner immediately after passing of the same and in case the petitioner is found entitled to some admitted amount, the same shall be



paid to the petitioner within a period of 30 days thereafter. If the claim of the petitioner is refused, the petitioner will have liberty to seek his remedy in accordance with law.

The writ application is allowed to the extend indicated above.

(Rajeev Ranjan Prasad, J)

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