

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15612 of 2013

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Raj Kishore Prasad son of Late Bindeshawari Yadav, resident of Jangalia Kali Mandir Road, Gopalganj, Proprietor M/S Prasad Construction, Jangalia Kali Mandir Road, Gopalganj.

... .. Petitioner

Versus

1. The State Of Bihar.
2. The Secretary, Road Construction Department, Govt of Bihar, Patna.
3. The Principal Secretary, Road Construction Department, Govt of Bihar, Patna.
4. The Engineer-in-Chief-cum-Additional Commissioner, Road Construction Department, Govt of Bihar, Patna.
5. The Chief Engineer, National Highway (North) Road Construction Department, Govt of Bihar, Patna.
6. The Superintending Engineer, National Highway Circle, Muzaffarpur.
7. The Executive Engineer, National Highway Division Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Usha Kumari Singh, Advocate
For the Respondent/s : Mr. Syed Iqbal Ahmad, SC-20
Mrs. Puspanjali Sharma, AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-01-2019 This writ application has been preferred for the following reliefs :-

*“(I)For the issuance of writ in the nature of certiorari for quashing the letter issued by the Engineer-in-Chief, Road construction Department Bihar, Patna vide **memo no 2823(E) dated 27-04-2012(Annexure-15) and memo no 2822(E) dated 27-04-2012(Annexure016)** by which the prayer of the petitioner for extension of time for both the agreement have been rejected without assigning any reason.*



(II) For issuance of an appropriate writ / writs, order/orders, direction/directions commanding the respondents concern to grant sanction for extension of time in the agreement / work order because the work could not be done in time due to latches on the part of the respondent department which has been admitted by the respondents within the time fixed and due to that the admitted due amount is not being paid to the petitioner.

(III) For issuance of appropriate order or direction to the concern respondents to make the payment of admitted amount with statutory interest which has not been paid to the petitioner due to latches on the part of the respondents concerned.

(IV) For a direction to the respondents authority to grant any other relief for which the petitioner is entitled in the facts and circumstances of the case.”

In course of hearing, learned counsel for the petitioner agrees that so far as the first issue with regard to extension of time is concerned, the same has become infructuous, inasmuch as the request of the petitioner for extension was rejected way back in the year 2012 vide Annexure 15 and 16 to the writ application. Since then, the work in question has already progressed and the petitioner would not be interested in getting into the same work at this stage. Learned counsel, however, submits that the petitioner is concern about his admitted dues



which has not been paid so far. It is submitted that the petitioner has completed the work in question.

On behalf of the State a counter affidavit has been filed stating therein that the works in question were actually completed on 05.12.2006 and 30.07.2007 respectively and the petitioner has already been paid for the same. It is also stated that the security deposits have been refunded. It is submitted that so far as the deductions made under the provisions of the contract are concerned, the same cannot be allowed to be questioned at this stage.

Having heard learned counsel for the petitioner and learned counsel representing the State as also on perusal of the records, this court is of the considered opinion that once the respondents have come out with a statement in the counter affidavit that the payments have already been made to the petitioner and the security deposits have been refunded which are not denied by the petitioner by filing any rejoinder thereto, this writ application cannot proceed now. The work in question was awarded to the petitioner in the year 2005 and it was to be completed within four months which was actually completed on 05.12.2006 and 30.07.2007.

In view of uncontroverted statements made in the



counter affidavit, the writ application cannot proceed and is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

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