IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23554 of 2019

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M/s P. K. Construction Pvt. Ltd. through its Proprietor Pintu Kumar, Male, aged about 39 years, Son of Ranjeet Mahto, Resident of Mohalla- Khandpur, P.S.- Sheikhpura, District- Sheikhpura.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Tourism Department, Government of Bihar, Patna.
2. The Under Secretary, Tourism Department, Government of Bihar, Patna.
3. The Managing Director, Bihar State Tourism Development Corporation Ltd., Patna.
4. The Chief Engineer, Bihar State Tourism Development Corporation, Kautilya Vihar, Birchand Patel Path, Patna- 800001.
5. The Executive Engineer, Bihar State Tourism Development Corporation, Kautilya Vihar, Birchand Patel Path, Patna- 800001.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Sanjeev Nikesh, Advocate
For the Respondent/s : Mr. Sudish Kumar, AC to PAAG2
For the Respondents no. 3, 4 & 5 : Mr. Abhimanyu Pratap

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 29-11-2019

Heard the learned counsel for the parties.

The petitioner has approached this Court for a direction to the respondents to make the balance payment of Rs. 8,25,965/- for the work/supply made by the petitioner in the improvement of *Bade Ki Gali* along with statutory interest.

It appears that a contract was entered into between the petitioner and the respondent for making improvements in *Bade Ki Gali* at the cost of Rs. 80,54,754/-. For the aforesaid amount, the performance security and additional performance security as desired by the respondent was deposited. It appears that till date, only an amount of Rs. 72,28,779/- has been paid to him which gets reflected from the certificate of tax deducted at source under Section 41 of the Bihar Value Added Tax Act, 2005.

Basing his contention on the strength of the aforesaid admission of being paid Rs. 72,28,779/-, the learned counsel for the respondent has submitted that for whatever work/supply having been performed/made by the petitioner, he has been paid the aforesaid amount.

The aforesaid argument is incorrect in as much as the counsel for the respondent did not have any occasion to seek instruction in the matter with respect to the performance of work/supply of raw materials of the petitioner. Likewise, this petition also lacks in material particulars with respect to the petitioner having performed the work or supply goods to the extent of the required amount for which the contract had been entered into. One can only gather from representation preferred by the petitioner that the entire work was completed/supply made against the cost for which the agreement was made and the balance amount of Rs. 8,25,965/- is outstanding against the respondent.

Needless to state that the concerned respondent shall be under an obligation to dispose of the representation of the petitioner within a period of 60 days from the date of receipt/production of a copy of this order. If the claim of the petitioner is found to be tenable, necessary release order shall also be passed for making such payment within the aforesaid stipulated period.

The aforesaid direction is to be enforced only, if it is found that the work has been performed/supply made for which the payment is being sought.

With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2019
Transmission Date	