

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17688 of 2018

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Confisec Pvt. Ltd. through it's Director Jaya Arya, Wife of Vineet,
resident of 12, Ratnam, Royal Crescent, Thaltej, Ahmedabad 380059.

... .. Petitioner

Versus

1. Bihar Staff Selection Commission through it's Chairman, Bihar Staff Selection Commission.
2. Chairman, Bihar Staff Selection Commission, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mrs.Shama Sinha, Advocate
For the Respondent/s : Mr.Satyabir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 23-07-2019

Petitioner, in the present case, is seeking a writ in the nature of mandamus commanding the respondents to consider his representation dated 01.05.2018 said to have been submitted by one of the directors of the petitioner-company. He is also seeking a direction to the respondents to release the payment, which, according to the petitioner, has become due in terms of the agreement executed between the one of the directors and the then Chairman, Bihar Staff Selection Commission, Mr. Sudhir Kumar.

It is the case of the petitioner that due to nature of the work which is confidential the agreement is signed



between the Chairman of the Commission and the Director of the Company by name disclosing minimum details about the printing company and the assignment. The petitioner claims that pursuant to the agreement executed by the then Chairman and Mr. Vineet Kumar, the petitioner-company printed the question papers and dispatched those question papers to the Treasury Officers through reputed logistic/courier company. Thereafter, some bills were also raised for the confidential work successfully done in the year 2016, request for payment was made but despite several representations the payments could not be made to the petitioner.

It is further stated that the petitioner-company was again awarded some work for printing confidential materials for the competitive examination which was to be conducted by the Commission in four phases in the year 2017. The petitioner-company has dispatched materials of the first phase and second phase but the question papers of the second phase got leaked prior to the examination. In the writ application though the petitioner had not disclosed that the said leakage of the question paper led to registration of



a criminal case, now in the counter affidavit the Commission has come out with a plea that there is no privity of contract between the Commission or its present Chairman, the Commission cannot certify as to (i) genuineness and authenticity of the so-called agreement as enclosed at Annexure '1' and (ii) if at all, such an agreement had been executed then what was the terms and conditions of the payment and what was the amount which was actually paid against the work done and the outstanding, if any, because there is absolutely no record in this regard kept in the office of the Commission.

Then it has been disclosed that a criminal case being Kadamkuan P.S. Case No. 44/2017 dated 04.02.2017 is presently pending and in absence of any records available in the office of the Commission it is not in a position to issue any directions on the representation of the petitioner.

Having heard learned counsel for the petitioner and learned counsel representing the Commission, this court finds that with regard to the leakage of the question papers a criminal case has been registered which is pending presently. The Commission has denied privity of contract



and, according to it, there is absolutely no records in this regard kept in the office of the Commission, therefore, it is not in a position to take any decision thereon.

In the totality of the facts and circumstances of the case, this court is of the considered opinion that the writ jurisdiction of the court is not fit to be invoked in this case because the court will not go into a fishing enquiry into the claims made by the petitioner and determination thereof. The petitioner, if so advised, may seek his remedy before appropriate court in an appropriate jurisdiction.

Learned counsel for the petitioner has submitted before this court that there are still printed materials lying in the premises of the petitioner and if the Commission is claiming that there is no privity of contract between the petitioner-company and the Commission, the petitioner may be permitted to go for destruction of those materials.

In the counter affidavit, the Commission has made it clear that it would not issue any direction whatsoever for destruction of any materials claimed to have been kept in the premises of the petitioner because the matter is *sub-judice* in the criminal case.



This court is of the considered opinion that in such circumstance it is for the petitioner to approach the competent court or the authority, as the case may be, where the criminal case is pending to get an appropriate order as to the destruction of the materials. It is only those court or authority can decide whether those materials are relevant for the purpose of criminal case or not, and if, those are not relevant for the criminal case, such court or authority may issue an appropriate order in accordance with law.

The Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.07.2019
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