

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5628 of 2020

M/s Ensol Multiclean Equipments Private Limited having its registered office at 401, Nellkanth, Opp. Sahakar Bhawan, Bhawani Singh Road, Jaipur-302001 represented through its Managing Director, namely, Arun Sharma, Gender- Male, aged about 47 Years, Son of Laxmi Shankar Sharm, resident of Flat No. 1141, 11th Floor, Block No. 11, Rangoli Garden, Maharana Pratap Marg, Kanakpura, Panchyawala, Jaipur, Rajasthan- 302034.

... .. Petitioner.

Versus

1. The State of Bihar represented through the Chief Secretary, Government of Bihar, Secretariat, Patna.
2. The Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Patna Municipal Corporation, represented through the Municipal Commissioner, Maurya Lok Complex, Buddha Marg, Bihar, Patna - 800001.
4. The Chief Municipal Engineer, Patna Municipal Corporation, Maurya Lok Complex, Buddha Marg, Bihar, Patna - 800001.

... .. Respondents.

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Advocate. Mr. Kumar Ravish, Advocate.
For the PMC	:	Mr. Yashrajbardhan, Advocate.
For the State	:	Mr. Nadim Seraj, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 27-05-2020

Heard the parties.

Vide a detailed order dated 01.05.2020, this Court has directed the respondent no.3 to file a counter affidavit in the matter. In compliance thereof, a counter affidavit has been filed which is on record. In paragraph-6 of the counter affidavit, it is admitted that the petitioner had supplied six number of Truck Mounted Suction cum Jetting Machine-4000 liters of capacity and six number of Truck Mounted Super Sucker Machine with two numbers of Dump Tank to Patna Municipal Corporation. It



is also admitted that the machines were supplied by the petitioner, which were purchased by the Patna Municipal Corporation and were not included in the approved DPR. As it was necessary to make purchase for use of machineries in the season, it was done but the payment could not be made as it has not been included in the approved DPR. It is also stated in the counter affidavit that a supplementary DPR has been prepared including the machinery purchased and vide letter no.4902 dated 05.05.2020, it has been written to the Urban Development and Housing Department, Government of Bihar, Patna by the Patna Municipal Corporation for approval and once it is accorded the payment could be released.

Having considered the matter, it is admitted fact that petitioner has supplied the aforesaid machines to the Patna Municipal Corporation and the Corporation accepted and used it. Hence, the respondent no.3 is directed to pay the admitted dues of the petitioner within a period of four weeks from the date of receipt/production of a copy of this order, failing which, the respondent no.3 shall be personally liable to pay 10% interest on the admitted dues of the petitioner from the date of filing of the writ application till its actual payment.

At the end, learned counsel for the petitioner



submits that he is also entitled for interest on the delayed payment as per GeM terms and conditions, the payment has to be released within 10 days of acceptance of the goods. Also the MSME Act, 2006, provides for penal interest if payment is delayed. All payment towards MSMEs have to be made before the due date of payment. If the buyer fails to make payment of the amount to the supplier, who is an MSME, he shall be liable to pay compound interest with monthly rests to the supplier on the amount from the appointed day or, on the date agreed on, at three times of the Bank Rate notified by Reserve Bank.

In view of the submissions as made above, the petitioner is directed to file a representation before the respondent no.3 within a period of one month regarding interest on the delayed payment as per GeM terms and conditions, which shall be considered and decided by him within a period of one month thereafter in accordance with law.

With the aforesaid observation and direction this writ application stands disposed of.

(Anjani Kumar Sharan, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.05.2020
Transmission Date	NA

