

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2603 of 2021

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SHASHI KUMARI, wife of Late Kamlesh Kumar, Resident of Village-
Lakhibag Manpur, Police Station- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Rural Works Department, Government of Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Bihar, Patna.
3. The Superintending Engineer-cum-Nodal Officer, PMSGY, Bihar Rural Road Development Authority, Patna.
4. The Superintending Engineer, Rural Works department, Works Anchal, Gaya.
5. The Executive Engineer, Rural Works Department, Work Division, Tekari (Gaya).
6. The Superintending Engineer, Rural Works Department, Work Anchal, Kishanganj.
7. The Executive Engineer, Rural Works Department, Work Division, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respondent/s : Mr. Lalit Kishore (A.G.)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 22-11-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief(s):-

“(i) A writ in the nature of certiorari setting aside the Letter No. 2085 dated 23.09.2020 issued under the signature of Respondent No. 3 addressed to the Respondent No. 5 as well as consequential order bearing Memo No. 1351 dated 25.09.2020 issued under the signature of Respondent

No. 5 as contained in Annexure-7 and 8 whereby and where under due to sudden death of husband of petitioner who was awarded the contract work under Scheme of PMGSY-II Work MRL01 Apar Jamenahar Road Package No. BR-12P2R-06 and executed an agreement with concerned Respondent on 19.03.2020 and executed the work substantially but despite having made claim by the legal heir of deceased contractor being widow duly authorised by other legal heir to complete the ongoing work within prescribed time frame, contrary to clause 55.2 of Standard Bidding Document for PMGSY (hereinafter SBD PMAGASY) taking aid of Clause 55 and 55.1 of General clause of contracts (hereinafter GCC only) which is, not applicable in case of petitioner, the agreement for execution of work made by deceased husband of petitioner has been, dropped/rescinded and directed to retender of the works in question and accordingly agreement has been rescinded/dropped.

(ii) For setting aside the Letter No. 2087 dated 23.09.2020 as contained in (Annexure-7/1) issued by name authority Respondent No. 3 addressed to Respondent No. 7 directing to terminate the agreement of deceased husband of petitioner Late Kamlesh Kumar with regard to Package No. BR18P2R-21- T02 Bhag Jhunkise Bellgadi Pipra Path and directed for retender despite the fact that clause 55.2 of SBD PMGSY provides that if wife who is legal heir is willing to complete the rest of work then she may be allowed to complete the work by executing fresh agreement but ignoring the same taking aid of GCC Clause 55 agreement has been terminated and fresh tender is to be notified.

(iii) To set aside the fresh Tender Notice RWD/PMGSY-II/RRP- II/Tekari/ ET-20-21/14 inviting Bids as retender for works bearing Package No. BR12P2R-06 published on 05.12.2020 in Daily Hindustan News Paper from the level of Respondent No. 5 fixing the date by 28.12.2020 contrary to Clause 55.2 of SBD PMGSY negating the claim of petitioner as contained in Annexure-11.

(iv) For a direction upon the Respondent concerned to execute fresh agreement with the petitioner who is eligible for the same as she has also got fresh Registration No. 1200051/2020 and

is willing to complete the the ongoing execution of works assigned to her deceased husband. and has all infrastructure to complete the work as she used to assist her husband in execution of work since very inception of contract work done by her deceased husband.

(v) To restrain the Respondent No. 7 to retender the assigned work bearing Package No. BR18P2R-21-T02-Bhag Jhunkise Belgadi Pipara Path and another work assigned under work Division of Respondent No. 7 during pendency of the present writ petition.

(iv) Any other order/orders, direction/directions, writ/writs for granting any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of the case.”

It is submitted by learned counsel for the State that during pendency of the present writ petition, remaining contract work has been allotted to the 3rd party.

As such, this Court directs that whatever work was executed by the late husband of the petitioner and bill is pending before the authorities, same shall be paid to the widow petitioner within 30 days from the date of filing of such representation before respondent no. 5, namely, The Executive Engineer, Rural Works Department, Work Division, Tekari (Gaya) and respondent no. 7 (The Executive Engineer, Rural Works Department, Work Division, Kishanganj.

The present petition stands disposed of with the aforesaid direction.

Interlocutory Application(s), if any, shall stand

disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

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