

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5070 of 2020

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M/s Ajanta Construction Co. having its Registered Office At F - 175, Kankarbagh People's Co-operative Colony, P.S. Kankarbagh, District- Patna through its Authorized Representative namely Dilip Kumar Sharma aged about 54 years (Gender - Male) S/o Shri Chandradeo Sharma, Resident of Village - Achuara, P.S. Badh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Urban Development and Housing, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Department of Urban Development and Housing, Govt. of Bihar, Patna.
3. The National Building Construction Corporation Ltd. through its Managing Director, NBCC Bhawan, Lodhi Road, New Delhi.
4. The Chief General Manager, National Building Construction Corporation Ltd., 404, Maurya Tower, New Dak Bungalow Road, P.S. - Kotwali, Patna.
5. The Additional General Manager, Zonal Head, National Building Construction Corporation Ltd., 404, Maurya Tower, New Dak Bungalow Road, P.S. - Kotwali, Patna.
6. The Sr. General Manage, S.B.G. - Head, Patna, National Building Construction Corporation Ltd., 404, Maurya Tower, New Dak Bungalow Road, P.S. - Kotwali, Patna.
7. The Deputy Project Manager, National Building Construction Corporation Ltd., 404, Maurya Tower, New Dak Bungalow Road, P.S. - Kotwali, Patna.
8. The Project Engineer, National Building Construction Corporation Ltd., 404, Maurya Tower, New Dak Bungalow Road, P.S. - Kotwali, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Madhu Prasun, Advocate
Ms. Mintoo Kumari, Advocate
For the Respondent Nos. 1 & 2: Mr.Abbas Haider (S.C. 6)
For Respondent Nos. 3 to 8: Dr. Arun Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-10-2022

Petitioner has prayed for following relief(s) : -



(i) For issuance of appropriate writ/writs, order/orders, direction/directions especially the writ of mandamus commanding the concerned Respondents to make immediate payment with 18% compound interest and appropriate compensation to the petitioner of his security Deposit (SD) and final bills of work done (duly admitted and approved) with regard to renovation and construction of outfall channel from Bhutnath Road (Nandlal Chapra) to Pahari Sump House portion D to G, Package No.- XIV of Kankarbagh Drainage System on the terms and conditions contained in 'Letter of Award' No. SBG/PAT/ENGG/KDS/3(50)/2008/1096 dated 02/06/2008, which have been withheld by the concerned Respondents since long i.e. since 14/04/2013 (date of submission of last and final bill after completion of work) in spite of order dated 03/05/2018 of this Hon'ble Court passed in C.W.J.C. No. 15765 of 2016 only on the pretext that there is a clause in the Condition of Contract, wherein it is stated that the contractor shall become entitled for payment only after National Building Construction Corporation (hereinafter referred as NBCC) has received the corresponding payment(s) from the client / owner of the work done by the contractor and in the present case that payment is also received by the NBCC.

(ii) FOR issuance of appropriate Writ/ Writs, Order/ Orders, Direction /Directions commanding the concerned Respondents to make immediate payment of the aforesaid amount in view of the settled law that the contractor cannot be refused payment after completion of work even on the pretext of paucity of fund and in the present case the contractor has completed his works long ago.

(iii) FOR issuance of appropriate Writ/ Writs, Order/Orders, Direction / Directions commanding the Respondents to make the aforesaid payment to the Petitioner at an immediate and in a time bound manner with other consequential financial benefits, if any, and to further appropriately and adequately compensate him for his business and other consequential losses due to inactiveness of the concerned Respondents.

(iv) FOR issuance of appropriate Writ/ Writs, Order/Orders, Direction/ Directions fixing appropriate and adequate civil/ criminal liabilities on the guilty Respondents due to whom due payments to the Petitioner could not be made in time in spite of order of this Hon'ble Court and the Petitioner heavily suffered in his life and trade and still suffering without any fault in his part.

(v) FOR any other relief / reliefs for which the Petitioner is entitled under law.”

In view of the fact that Bihar Public Works Dispute



Arbitration Tribunal is now functional, learned counsel for the petitioner, under instructions, seeks permission to withdraw the present petition with liberty to take recourse to such other appropriate remedies, as are otherwise available, in accordance with law.

Permission granted.

As and when any such request is made by the petitioner before the Tribunal, the same shall be considered and decided expeditiously.

The petition stands disposed of as withdrawn with the liberty aforesaid.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(Satyavrat Verma, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	12.10.2022
Transmission Date	

