

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7625 of 2019

M/s Shree Niwas Enterprises a proprietorship firm having its registered office at Bhopalika House, East Boring Canal Road, Vishnu Place, Patna-800001 though its Proprietor, Mahabir Prasad Agarwal, aged about 69 years, male, Son of Late Manna Lal Agarwal, resident of Bhopalika House, East Boring Canal Road, Vishnu Place Lane, Patna-800001

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. Bihar State Power (Holding) Company Limited through its Chairman-cum-Managing Director, Vidyut Bhawan, Bailey Road, Patna
3. The Chairman-cum-Managing Director, Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey Road, Patna
4. North Bihar Power Distribution Company Limited through its Managing Director, Vidyut Bhawan, Bailey Road, Patna
5. The Managing Director North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna
6. The Chief Engineer (Stores and Purchase) North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna
7. The Electrical Superintendent Engineer (Stores and Purchase) North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna
8. The Senior Manager (Finance and Accounts) North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna
9. The Assistant Electrical Engineer (Commercial) North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Mr. Rajan Prakash, Advocate Mr. Vishal Vikram Rana, Advocate Mr. Vijay Shankar Tiwari, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7 Mr. Vinay Kirti Singh, Advocate Mr. Anand Kumar Ojha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-11-2022



Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- (i) For issuance of an appropriate writ, order or direction in the nature of writ of Mandamus, directing the respondent authorities to immediately release the payment of the petitioner as against the material supplied by it pursuant to NIT No. 418/PR/NBPDCL/2013, issued by the respondent, North Bihar Power Distribution Company Limited.
- (ii) To hold and declare that in the facts and circumstances of the case the conduct of the authority in not making the payment is wholly arbitrary, perverse and unsustainable in the eye of law.
- (iii) To hold and declare that once the materials were supplied by the petitioner and the same were duly accepted, that too, after inspection and thorough verification conducted by the Inspecting Officer appointed by the authorities themselves and after having sealed the material thereafter, they cannot be permitted to withhold the payment without any valid reason.
- (iv) For a declaration that inordinate delay in making payment is detrimental to a small scale industrial unit and the petitioner is entitled for statutory interest over the same as per the provisions of the MSME Act, 2006; and for any other relief reliefs to which the petitioner may be found entitled to in the facts and circumstances of the instant case.



In view of the averments made in the counter affidavit, and more specifically Paragraph Nos. 18 and 19 thereof, Shri Suraj Samdarshi, learned counsel for the petitioner, states that petitioner shall approach Respondent No.6, namely, the Chief Engineer (Stores & Purchase), North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna venting out all grievances, including subject matter of the present petition, enabling him to take a decision thereupon.

Needless to add, the parties would be bound by the minutes of the High Powered Committee, constituted in terms of and under the directions issued by this Court in C.W.J.C. No. 17335 of 2015, titled as M/s Sri Niwas Enterprises Vs. The State of Bihar & others. The authority shall take a decision positively within a period of three months from the date of such request, accounting for all the materials placed on record by the parties and assign reasons in deciding the issue. Liberty reserved to the petitioner to take recourse



to such remedies as are otherwise available in accordance with law, should the need so arise subsequently.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	04.11.2022
Transmission Date	

