

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6238 of 2019

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Baibhaw Construction Pvt. Ltd. Having registered office at Ward No.13
Mohalla Sareya P.S. and Distt- Gopalganj through its Managing Director Braj
Kishore Singh, Son of Late Gorakh Singh, Male aged about 70 years.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction
Department, Visheshwaraiya Bhawan, Patna.
2. The Joint Secretary, Water Resources Department, Sinchai Bhawan, Patna.
3. The Chief Engineer, Water Resources Department (Saran Canal) Gandak
Project, Siwan.
4. The Executive Engineer Saran Canal Division at and P.O. Mairwa, Distt.
Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nilendu Kumar Choudhary, Advocate Mr. Rahul Kumar Dubey, Advocate
For the Respondent/s	:	Mr. Binod Kumar Sinha, AC to Ex GP 8

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

Date : 18-10-2022

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

“(i) To issue a writ of mandamus
or any other writ /direction commanding
respondent no. 4 to pay and refund security
amount of Rs. 3,34,66,690/ after obtaining Bank
Guarantee of like amount from the petitioner
pertaining to works contract agreement no.
01/SBD 2014-15.

(ii) To issue a writ of mandamus or
any other appropriate writ /order /direction
declaring Government resolution dated 09-12-
2009 (Annexure 1) issued under the authority of



the Governor Bihar under Article 166 of the Constitution of India by Principal Secretary Road Construction Department to be binding on all government and works departments after declaring office order No. 57 dated 30-06-2016 (Annexure 2) issued by respondent no. 2 a subordinate authority as being contradictory, obstructive to smooth development of projects as well as a serious obstacle in huge projects of works contract specially in water resources Department.

(iii) To issue further writ/ order /direction commanding not only respondents but all work departments of the Government Bihar to obey and act in terms of the Government resolution dt. 09-12-2009 to speed up development works in and smooth progress of all projects which is hindered by the office order of the respondent no. 2.

(iv) To declare the office order of respondent no. 2 as being used and likely be used as tool to enhance corruption in respect of work development and a serious obstacle in smooth progress of developmental and infrastructure projects in Bihar.”

Learned counsel for the petitioner submits that, at this point in time, 60% (approx) of the work stands completed and that the work is in progress as per the schedule fixed in terms of the agreement entered into between the parties. There is no delay in the execution of the work.

If that were so then we are of the considered view that respondent No.3/4, namely The Chief Engineer, Water Resources Department (Saran Canal) Gandak Project,



Siwan/The Executive Engineer, Saran Canal Division at & P.O. Mairwa, Distt. Siwan, may re-examine the issue independent of its observations made vide communication dated 11.01.2019 (Annexure-P/4, page-18), more so in view of the clause contained in resolution dated 08.10.2009, that of the State Government.

Let the petitioner approach the said respondents, who shall, within four weeks thereafter, take a decision thereupon.

Petition is disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-DKS

AFR/NAFR	
CAV DATE	
Uploading Date	19.10.2022
Transmission Date	

