

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6770 of 2022

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Agile Tech Solution Pvt. Ltd. Damuchak, P.O. Head Post Office, Block-Mushari, Police Station- Kaji Mohammadpur, District- Muzaffarpur, through Abhishek Kumar Srivastava aged about 26 years, male (Sales Manager, Agile Tech Solutions Pvt. Ltd.) son of Ashok Prasad Srivastava, resident of Village-Jalpurwa, P.O. Mustafabad, Police Station- Goreyakothi, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Chairman, Nagar Parishad, Gopalganj.
4. The Vice Chairman, Nagar Parishad, Gopalganj.
5. The Executive Officer, Nagar Parishad, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gyan Prakash, Advocate
For the Respondent/s	:	Mr.Subhash Pd. Singh (Ga3)
		Mr. Ghanshyam Sharma, AC to AG 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-06-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- I. For issuance of writ in the nature of certiorari for setting aside the order contained in letter No.5322 dated 22.11.2017 issued under the signature of Executive Officer, Nagar Parishad, Gopalganj whereby and whereby rejected the claim of the petitioner with respect to the work namely "Selection of Service Provider for Development, Hosting, installation, Commissioning, Consulting, Training and Maintenance of E-Municipal Solutions with Server & Other IT Infrastructure Work" carried out by the petitioner.

II. For issuance of writ in the nature of mandamus commanding the Executive Officer, Nagar Parishad, Gopalganj to pay the admitted dues of the petitioner for Rs.96,50,000.45/- with respect to the work namely "Selection of Service Provider for Development, Hosting, Installation, Commissioning, Consulting, Training and Maintenance of E-Municipal Solutions with Server & Other IT Infrastructure Work" carried out and completed by the petitioner company in terms of Agreement dated 20.06.2016 executed in between the Executive Officer,

Nagar Parishad, Gopalganj and petitioner and also in terms of the work order issued by the same authority vide letter No.1401 dated 20.06.2016.

III. For a direction upon the Executive Officer, Nagar Parishad, Gopalganj to pay the statutory interest per annum over the entire claim amount of the petitioner from the date of entitlement of the said claim and till the date of its realization.

IV. For any other relief(s) for which the petitioner may be found entitled to in the factual matrix of the case.

We are of the considered view that the present petition

only merits rejection.

Disputed questions of fact and disputed claims are sought to be agitated by way of present petition filed under Article 226 of the Constitution of India. Allegedly, vide agreement dated 20th of June, 2016 (Annexure 5, page 39), certain works were executed by the petitioner. Petitioner contends the same to have been executed to the satisfaction of the respondent authorities for which no payment was released. Petitioner claimed a sum of rupees 96 lacs (approximately) in relation to which, he earlier approached this Court by way of **CWJC No. 7160 of 2017, titled as Agile Tech Solution Pvt. Ltd., Versus the State of Bihar & Ors.** (page 56, Annexure 15), which also was not entertained on merits but disposed of with liberty to the petitioner approaching the Executive Officer, Nagar Parishad, Gopalganj for verification of the claim.

The said authority has now passed an order dated 22nd of November, 2017, though to the petitioner's dissatisfaction.

There is yet another order placed on record indicating that the claims set up by the petitioner cannot be adjudicated before the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008. The decision is in Reference Case No.32 of 2020, titled as Agile Tech Solution Pvt. Ltd., Vrs. The State of

Bihar & Ors. (Annexure 24, Page 72).

We are of the considered view that any which way, claims set up by the petitioner cannot be adjudicated by way of the present petition under Article 226 of the Constitution of India and, as such, present petition is disposed of reserving liberty to the petitioner to take recourse to such remedies which are otherwise available in accordance with law for Article 226 cannot be invoked to get dues released arising out of contractual obligations, which also are in dispute.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/- Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.06.2022
Transmission Date	NA