

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7342 of 2022

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M/S Surya Enterprises through its Proprietor Raj Kumar Singh aged about 50 years Son of Late Anup Singh office at Ram Krishna Nagar, New Bypass LP Shahi College Road, Patna 800027 Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principle Secretary, Rural and Development, Old Sectariat Patna Bihar.
2. The Chief Executive Officer, Bihar Rural and Livelihood Promotion Society, Rural and Development, Government of Bihar 3rd floor, Vidut Bhawan Annexe- II Baily Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Dayal, Advocate
For the Respondent/s : Mr.Anjani Kumar (AAG-4)

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

Date : 21-06-2022

Heard learned counsel for the parties.

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

(a) For issuance of an appropriate writ in the nature of Mandamus for commanding and directing the Respondent authority particularly the Respondent no.1 to pay the 10% deducted amount of Rs 35,64,694=00 on account of

penalty, in delay in supply during the Covid-19 lock down period. Petitioner has submitted total bill of Rs 3,32,58,429=00, the respondent authority has deducted 10% on ground of delay in supply and paid only Rs 2,96,93,780=00 on 09.11.2021. The Force Majuere Clause (FMC) dated 13.05.2020 , Covid-19 advisory and guidelines issued by the Ministry of Finance, Government of India to all the States government of India, during Covid-19 lock down period three to six months be extended for any contractual obligation, and in this period no penalty or fine can be imposed because of non performance.

3 (b) For issuance of a appropriate writ directing the Respondent authorities under Force Majuere Clause dated 13.05.2020 ,advisory and guidelines issued by government of India, the deducted amount Rs 35,64,694=00 be paid in a stipulated period and /Or for any other relief (s) for which the Petitioner may be found entitled to in the facts and circumstances of the present case.

After the matter was heard for some time, finding the Bench not to be agreeable with the submissions made by learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned i.e. (Respondent No. 2 The Chief Executive Officer, Bihar Rural and Livelihood Promotion Society, Rural and Development, Government of Bihar) to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of on the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

(c) The order assigning reasons shall be communicated to the petitioner;

(d) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(e) Also, opportunity to place on record all relevant materials/documents shall be granted to the parties;

(f) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(h) Liberty reserved to the petitioner to approach the appropriate forum/Court, should the need so arise subsequently on the same and subsequent cause of action;

(i) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	