

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11843 of 2021

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MCNALLY BHARAT ENGINEERING COMPANY LIMITED having its registered address at 4, Mangoe Lane, 7th Floor, Kolkata - 700001, through its authorized representative, Ajay Kumar Saha, son of Late R.N. Saha, aged about 55 years, Gender- Male, resident of 110 R.P. Gupta Path, Titagarh (M), North 24 Pargana, West Bengal - 700119.

... .. Petitioner/s

Versus

1. BIHAR STATE POWER GENERATION COMPANY LTD (formerly known as Bihar State Electricity Board), Vidyut Bhawan, Bailey Road, Patna - 800021, through its Managing Director.
2. The Managing Director, Bihar State Power Generation Company Ltd. Vidyut Bhawan, Bailey Road, Patna - 800021.
3. The Chief Engineer (Generation), Bihar State Power Generation Company Ltd. Vidyut Bhawan, Bailey Road, Patna - 800021.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nikhil Kumar Agrawal, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

3 31-01-2022 Petitioner has prayed for the following relief(s):

“i. To issue an appropriate writ/order/direction in the nature of *Mandamus* commanding the Respondents to pay an amount of Rs.1,59,78,255/- (Rupees One Crore Fifty Nine Lakhs Seventy Eight Thousand Two Hundred Fifty Five Only) being admitted dues payable by the Respondent to the Petitioner towards work undertaken by the Petitioner for Ganga Water Supply Project at



Barauni in view of the Contract dated 03.07.2012 executed between the Respondent and the Petitioner and the subsequent Contract Short Closure cum - Settlement Agreement dated 24.01.2017 and Preliminary Agreement dated 20.06.2016.

ii. To issuance an appropriate writ/order/direction in the nature of *Mandamus* commanding the Respondents to pay up-to-date interest from 20.07.2016 till the date of actual payment @ 14.5% p.a. as per SBI borrowing rate.

iii. Issuance an appropriate writ/order/direction in the nature of *Mandamus* commanding the Respondents to pay an amount of Rs.2,09,65,000/- being the amount of engineering expenditure payable by the Respondent Company upon the supply of remaining drawing by the Petitioner as per the billing schedule.

iv) To issue an appropriate writ/order/direction in the nature of *Mandamus* commanding the Respondents to pay the Bank Guarantees charges levied towards renewal of bank guarantee being Bank Guarantee No.0999815BGO000162 dated 28-03-2020 for Rs.4,58,922/- (Rupees Four Lakhs Fifty Eight Thousand Nine Hundred Twenty Two Only).

v) To any other relief or reliefs for which the Petitioner is found to be entitled in the facts and circumstances of the case.”

Pending consideration of the present petition, parties have entered into an agreement whereby they have mutually and voluntarily agreed to refer all disputes inter se the parties, including the subject-matter of the present petition, to the arbitration of Shri R.K. Datta, a retired Judge of this Court.

In view of the intervening developments, the present petition is not pressed. Parties have also agreed to request the



learned Arbitrator to adjudicate the disputes expeditiously and preferably within a period of six months from the date of reference.

Parties have also mutually agreed to appear before the arbitrator on 15.02.2022.

We clarify that under these circumstances we have not passed any order appointing the arbitrator.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/chn

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