

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9559 of 2019

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Babban Singh Son of Ram Prasad Singh Resident of Village- Badwan Kala,
Police Station- Adhoura, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary Department of Mirror Irrigation, Old Secretariat, Bihar, Patna.
3. The Principal Secretary Department of Environment of Forest, Bihar, Patna.
4. The Executive Engineer Minor Irrigation Division, Kaimur, Mohania.
5. The Divisional Forest Officer Forest Division, Bhabua at Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jay Prakash Singh, Advocate
For the Respondent/s : Mr. Durgesh Nandan (Aag14)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 15-11-2022

Heard learned counsel for the petitioner and learned
counsel for the respondents.

The petitioner has preferred the instant application for the
following relief(s) :-

“1. That this is an application on behalf of the petitioner for issuance of a writ in the nature of certiorari for quashing the order as contained in letter no. 840 dated 12.09.2018 issued by the Executive Engineer, Minor Irrigation Division, Kaimur, Mohania (Respondent No. 4) whereby and whereunder it has been communicated that in compliance of the M.J.C. No. 4096 of 2016 arising out of C.W.J.C. no. 21470 /2011 for



payment of compensation as quantified by Minor Irrigation Resources Department, Govt. of Bihar vide memo no. 3785 dated 07.09.2018 has been rejected by Respondent no. 4 without any valid and germane grounds and thereafter the petitioner further prays for issuance of a consequential writ in the nature of mandamus commanding and directing to the respondent authorities to pay the compensation amount with admissible interest as quantified by the Minor Irrigation Resources Department, Govt. of Bihar and/or for issuance of an appropriate order/directions for which the petitioner may be found legally entitled to in the facts and circumstances of the matter as stated hereinafter."

It is the case of the petitioner that he filed a writ application being C.W.J.C no. 21470 of 2011 in this Court for a direction to the respondent authorities to return the security money and reserve money deposited by the petitioner in terms of the general settlement notice dated 8.12.2008 with respect to Buchcha Reservoir Scheme along with interest thereon as well as compensation. The writ was allowed by order dated 10.5.2016 (Annexure-8) in the following terms.

"5. Having heard the parties and on consideration of the materials on record, this Court is of the view that the petitioner cannot be made to suffer by reason of the inter se dispute between two Departments of the Government, each claiming control



over the reservoir. The petitioner clearly acted within his rights settled to him under the tender after he had fulfilled all the conditions therefor. If by reason of an inter departmental dispute, the petitioner was prevented from reaping the fruit of his selection under the tender, he is surely entitled to refund of the deposit made by him in terms of the tender.

6. In the above view of the matter, this Court directs that in case the petitioner files a representation within two weeks from the date of receipt/production of a copy of this judgment before the Executive Engineer, Minor Irrigation Department, Bhabua at Kaimur (respondent no. 4) giving details and particulars of the amounts claimed to be refundable to the petitioner, the respondent no. 4 shall consider and determine the amount so refundable and ensure payment of the same within a period of eight weeks thereafter together with simple interest calculated @ 6% per annum on the total amount refundable from the date of deposit up to the date of actual payment. It is made clear that the petitioner shall be at liberty to raise a claim for appropriate compensation while representing before the respondent no. 4.

7. With the above observations and directions, the writ petition stands



allowed.”

It is further case of the petitioner that inspite of his having complied with the directions contained in order dated 10.5.2016 (Annexure-8), on the respondent authorities not paying the amount due, the petitioner filed a contempt application being M.J.C no. 4096 of 2016. The contempt application was disposed of by order dated 27.2.2019 (Annexure-13). Further from perusal of the “reasoned order” contained in memo no. 312/Patna, dated 6.2.2018 (Annexure-10) it would transpire that the Liability Committee in its meeting held under the Chairmanship of the Chief Engineer, Minor Irrigation Department and in which the Superintending Engineer, Minor Irrigation Circle, Patna/Gaya and the Executive Engineer, Minor Irrigation Division, Kaimur Mohania participated, recommended for payment of a sum of Rs. 3,41,606/- and an amount of Rs. 62,957/- by way of interest ie a total sum of Rs. 4,04,563/- to the petitioner. It is submitted that inspite of the said recommendation by the Liability Committee, even after the order passed in the contempt application a total sum of Rs. 1,77,957/- only was paid to the petitioner. Hence, the instant application for the prayer as stated above.

Having heard learned counsel for the parties and having



perused the materials on record it transpires that on the petitioner filing C.W.J.C no. 21470 of 2011 for return of the security money and reserve money deposited in terms of the general settlement notice dated 8.12.2008 with respect to the Buchcha Reservoir Scheme, this Court had directed the Executive Engineer, Minor irrigation Division, Bhabua at Kaimur to consider and determine the amount so refundable and to ensure payment of the same within a period of eight weeks together with simple interest calculated at 6 % per annum on the total amount refundable from the date of deposit up to the date of actual payment.

Not having received the amount, as directed by order dated 10.5.2016, the petitioner filed the contempt application in this Court being M.J.C. no. 4096 of 2016 on 2.12.2016. During pendency of the contempt application the Liability Committee in its meeting held on 3.2.2018 considered the case of the petitioner and by its order dated 6.2.2018 (Annexure-10) held the petitioner to be entitled for payment of a total sum of Rs. 4,04,563/-, which included interest to the tune of Rs. 62,957/- however the Irrigation Department paid a sum of Rs. 1,77,957/- only.

It is not in dispute that the three member Liability



Committee consisting of the Chief Engineer, Minor Irrigation Circle, Patna/Gaya, Superintending Engineer, Minor Irrigation Circle, Patna/Gaya and Executive Engineer, Minor Irrigation Division, Kaimur Mohania considered the case of the petitioner in their meeting held on 3.2.2018 and came to the conclusion that the petitioner was entitled for a payment to the tune of Rs. 3,41,606/- and interest thereon at the rate of 6% per annum from 21.12.2008 to 3.2.2018 which comes to Rs. 62,957/- ie a total sum of Rs. 4,04,563/-. However, by letter bearing no. 840 Mohania dated 12.9.2018 (Annexure-12) the Executive Engineer, Minor Irrigation Division, Kaimur Mohania wrote to the petitioner informing him that so far as the payment of the amount along with interest is concerned, the claim of the petitioner for payment of the amount is being rejected by the Minor Irrigation Department and that the petitioner should make a claim for the same from the Forest Department.

In view of the facts and circumstances as stated herein above and specially in view of the reasoned order contained in Memo no. 312/Patna dated 6.2.2018 issued under the signature of the Chief Engineer, Minor Irrigation Department, Patna the instant application is disposed off with the following directions :-



(i). The petitioner will file a representation along with the copy of this order before the Executive Engineer, Minor Irrigation Division, Kaimur/Mohania.

(ii). the Executive Engineer will calculate the total amount payable to the petitioner in view of the calculation of the dues payable as per the recommendation of the Liability Committee contained in Memo no. 312/Patna dated 6.2.2018 under the signature of the Chief Engineer, Minor Irrigation Department, Patna.

(iii). The total amount payable as per the recommendation of the Liability Committee will be calculated and paid by the Executive Engineer, Minor Irrigation Division, Kaimur, Mohania (respondent no. 4) to the petitioner after deducting the amount already paid.

(iv). The Principal Secretary, Minor Irrigation Department will ensure availability of fund, for compliance of the directions passed in this order, to the Executive Engineer, Minor Irrigation Division, Kaimur, Mohania (respondent no. 4).



The application stands disposed off with the above observations and directions.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

