

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10002 of 2019

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M/s Sanjay Construction Company through its Proprietor Sanjay Kumar Singh through its proprietor Sanjay Kumar Singh, Age- 46, Male, Son of Sri Mundrika Singh, R/o Kaushalya Kunj, Korhar, P.S. Bihta, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The Union of India, Ministry of Defence, Military Engineering Service (MES), through the Engineer in Chief, E-in-Cs Branch, integrated Hq, of MOD (Army), Kashmir House, Rajaji Marg, New Delhi.
2. The Chief Engineer, Central Command, having its Office at Head Quarters, Central Command, Lucknow.
3. The Chief Engineer, Jabalpur Zone, Military Engineering Services, Post Box No. 84, Bhagat Marg, Jabalpur.
4. The Commander Works Engineer, Military Engineering Services, Deepa Toli, Ranchi.
5. The Garrison Engineer, Military Engineering Services, Danapur Cantt. District- Patna.
6. Mr. Amod Rajak Junior Engineer (Civil), Military Engineering Services, Danapur Cantt. District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Advocate Mr. Prabhat Kumar Singh, Advocate
For the Respondent/s	:	Mr. Ravinder Sharma, Advocate Mr. Lokesh, Advocate Ms. Komal Chowbey, Advocate Mr. Saket Anand, Advocate

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

Date : 27-09-2022

Petitioner has prayed for the following relief(s):

“i) To issue an appropriate writ, order or direction for quashing Letter No. 95/E-8 Dated 02.02.2019 whereby and where under the Respondents Garrison Engineer, MES Danapur Cantt has cancelled the contract of the petitioner



on wholly erroneous ground without looking into the facts and circumstances of the case and without considering the case of the petitioner and above all ignoring the spirit of the Order passed by the Hon'ble High Court Order Dated 01.11.2018 passed in C.W.J.C. No. 20770 of 2018.

ii) To issue further appropriate writ, order or direction for quashing Letter No. 99 E-8 Dated 14.03.2019, whereby and where under the Respondents Garrison Engineer ;has cancelled the above said contract with effect from 15.04.2019 with a condition that now the contract will be completed through other agencies at the risk and cost of the petitioner fixing 25.04.2019, the date for preparing inventory of complete/incomplete work ignoring the facts that the petitioner was always ready to complete rest of the work but was prevented by Respondent no. 6 with ulterior motive and evil design.

iii) To issue further appropriate writ, order or direction commanding the Respondents to allow the petitioner to complete rest of the works of the contract bearing CA No. GE/DNR/02 of 2016-17 within a time scheduled fixed by this Hon'ble Court.

iv) To issue further appropriate writ or direction restraining the respondents from taking any coercive action as against the petitioner with respect to contract bearing CA No. GE/DNR/02 of 2016-17.

v) To award the cost of litigation and suitable compensation to the petitioner for the loss and the damages caused to the petitioner due to the illegal and arbitrary actions of the Respondents.

vi) To grant/award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”



Shri Surendra Kumar Singh, learned counsel for the petitioner submits that passing of the impugned orders dated 2nd of February, 2019 and 14th of March, 2019 (Annexures-12 and 12/A) was prompted for the reason that the material was in short supply, which fact, perhaps, was also known to the respondent. The reason for non-compliance of the work is none other than the short supply of the material. Also 75/80 % of the work stands completed.

If the respondents were to get the work executed through a third agency, as is indicated in its communication dated 14th of March, 2019, as also the steps now taken with the issuance of the tender for executing the remaining work issued on 26.09.2022, the petitioner would be put to immense loss, more so when today the material is available and the petitioner is ready and willing to complete the work within three months from the date of the order being reviewed by the authority.

Well, we do not express any opinion on merits and, as prayed for, allow the petitioner to approach respondent No. 5, namely The Garrison Engineer, Military Engineering Services, Danapur Cantt. District-Patna, placing on record entire material in support of the submissions made before us as also satisfying the authority of the petitioner's ability to complete the work as



per the standards stipulated in the agreement and within a period of three months.

We are hopeful that with the receipt of the petitioner’s request, the officer shall consider and decide the matter expeditiously and preferably within a period of two weeks thereafter.

With the aforesaid observations, the present petition, as prayed for, is disposed of.

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	29.09.2022
Transmission Date	

