

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14317 of 2021

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Shri Brijesh Kumar a proprietorship Firm, situated at Village-Chauriya tola, P.O.-Dhumnagar, P.S.-Jagdishpur, District-West Champaran through its proprietor Brijesh Kumar, male, aged about 44 years, S/o Ramashray Prasad having same address.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
2. Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. Executive Engineer, Rural Works Department, Works Div. Narkatiyaganj, West Champaran.
4. Engineer-in-Chief, Rural Works Department, Bihar, Patna.

... .. Respondent/s

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(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.)

Appearance :

For the Petitioner/s : Mr.Baidya Nath Thakur, Adv
For the Respondent/s : Mr.P.N. Shahi (AAG6)

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

Date : 17-01-2022

Heard learned counsel for the parties.

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

“(i) For quashing the order dated 03.07.2021 passed by the Executive Engineer, Rural Works Department, Works Div., Narkatiyaganj, West Champaran, whereby the Agreement No. 13/2008-09 dated 10.12.2008 executed in favour of the petitioner for construction of road under the Prime Minister Rural Road Scheme from Baisakhwa to Sikta in the district of West Champaran bearing Package No. BR-37R-152 has been rescinded and recommendation sent to the Engineer-in-chief, Bihar, Patna, for blacklisting the petitioner

proprietorship firm.

Further a writ of Mandamus be issued:-

(ii) For direction to the Executive Engineer, Rural Works Department, Works Division, Narkatiyaganj, West Champaran, to make payment of approximately Rs. 76,81,000/- to the petitioner firm under the Agreement No. 13/2008-09 dated 10.12.2008 towards renovation work of the fully constructed road which was severely damaged in the ravaging flood of 2010.

(iii) For direction to the Executive Engineer to pay the maintenance amount of approximately Rs. 24,85,364/- for the financial years 2017-18 to 2020-21 under the Agreement No. 13/2008-09 dated 10.12.2008.

(iv) For direction to the Executive Engineer to pay approximately 50 lakhs to the petitioner towards, permanent restoration cost for repairing works of the project road in 2020-21 as against the damage caused in the flood of 2017.”

Petitioner in this writ application has assailed the order dated 03.07.2021 (Annexure-11) passed by the Executive Engineer, Rural works Department, Works Division, Narkatiyaganj, West Champaran, by which the contract entered between the petitioner and Rural works Department has been rescinded on the ground that no work has been done as well as lack of supervision.

Since the writ petition raises disputed question of fact, same cannot be adjudicated by the High Court under its discretionary writ jurisdiction under Article 226 of the Constitution of India. Under the agreement entered between the petitioner and Rural Works Department, Government of Bihar, there is provision of adjudication of dispute between the parties

arising out of execution of work which bind both the parties.

In view of terms of the agreement, the writ petition is disposed of with liberty to the petitioner to approach the appropriate forum as agreed between the parties to resolve their dispute in terms of the agreement.

Petitioner is at liberty to take other remedial measures as available to him under law for redressal of his grievance.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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