

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14361 of 2021

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Kanhai Kumar, Son of Sri Shiv Rai Resident of Village and P.O.- Bisunpur
Pakari via Anisabad, P.S.- Beur, District- Patna, Pin- 800002, State- Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
2. The Secretary Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
3. The Engineer-in-Chief Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
4. The Chief Engineer-1 Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
5. The Superintending Engineer Rural Works Department, Works Circle, Patna.
6. The Executive Engineer Rural Works Department, Works Division, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Sahay, Advocate
For the Respondent/s : Mr. Kumar Alok, SC 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(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.)

Date : 17-01-2022

Heard learned counsel for the parties.

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

- (I) For quashing of termination/rescinding order,
issued vide Memo No. 1099, Patna dated 14-08-2020,



issued under signature of the Executive Engineer (i.e. Respondent No. 6) as contained in **Annexure-P/10**, by which **Agreement No. 09/SBD/2015-16 dated 10.04.2015** of the petitioner has been terminated/rescinded in most arbitrary manner and colourable exercise of power.

(II) **For commanding and directing** the concerned respondent either allow the petitioner to execute the maintenance work in terms of agreement subject to enter into supplementary agreement on the basis of revised estimate which is pending for its sanction Or to pay/refund entire Security and Performance/Additional Security deposit amount in favour of the petitioner relates to work in question.

(III) **For commanding and directing** to the concerned respondent to pay entire amount of 1st year maintenance work (i.e Rs.50,656.63) which has been done by the petitioner.

(IV) **For restraining the respondents** to invite fresh tender for the said work and for taking any coercive steps

against the petitioner during pendency of this writ application.

(V) **For declaring** that the actions of the respondents are arbitrariness, malafide, malicious and colourable exercise of power.

(VI) **For further** passing such an Order or Orders for which the petitioner is entitled under the law in the facts and circumstances of this case.

After the matter was heard for some time, finding the Court not to be in favour with the submissions made across the



Bar, learned counsel for the petitioner, more so in view of the disputed question of fact, fairly states that petitioner be permitted to withdraw the present petition reserving liberty to invoke the arbitration clause, and/or take recourse to such alternative remedies as are available in accordance with law.

Permission granted.

Petition stands disposed of in the aforesaid terms.

We clarify that we have not adjudicated the dispute on merits.

All questions of fact and law are left open to be agitated and adjudicated before the appropriate forum in appropriate proceedings.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.01.2022
Transmission Date	

