

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9815 of 2022

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M/s. ESMECO A partnership firm having its office at 43, Jamuna Apartment, Boring Road, P.S. S.K. Puri, District Patna through one of its Partners Shiv Kumar Agrawal aged about 64 years (Male) son of Late Keshari Chand Agrawal, Resident of 44, Jamuna Apartment, Boring Road, P.S. S.K. Puri, District Patna.

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. Patna, Bihar, a Government of Bihar undertaking, having its registered office situated at Vidyut Bhawan, Bailey Road, Patna through its Managing Director.
2. The Director (Finance) South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office situated at Vidyut Bhawan, Bailey Road, Patna.
3. The Chief Engineer, Department of Store and Purchase, South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office situated at Vidyut Bhawan, Bailey Road, Patna.
4. The Electrical Superintending Engineer, Department of Store and Purchase, South Bihar Power Distribution Company Ltd., Patna, Bihar, having its office situated at Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arjun Kumar, Advocate Mr. Alok Kumar, 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 JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-08-2022

Heard learned counsel for the parties.

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

- (i) For issuing direction to the respondents to release Rs. 7,81,275/- including Rs. 2,60,425/- as 5% Bank Guarantee amount deducted or whatever amount comes



- out after accounting against the supply of GI Earthing Pipe (GI Pipe for the sake of brevity) under purchase order given by the respondents and the supply received by them;
- (ii) For issuance of direction or appropriate writ to the Respondent company to account for the supply of the materials (GI Earthing Pipe) under NIT No. 280/PR/SBPDCL/2013 followed by the purchase order No. 102 issued vide Memo No. 1082 dated 30.12.2013 for the supply of 10000 numbers of GI Earthing Pipes 40mm diameters against this NIT;
 - (iii) For the issuance of appropriate writ/writs or direction/directions holding that after completion of works, the Bank Guarantee to the tune of 5% of the total amount cannot be withhold;
 - (iv) For the issuance of any other appropriate writ/(s)/order/(s)/ direction/(s) for which the petitioner is found entitled for in the present facts and circumstances of the case by this Hon'ble Court.

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, under instructions, seeks permission to withdraw the present petition reserving liberty to take recourse to such other remedies, as are otherwise available, in accordance with law.

Permission granted.



We are sure that as and when any such proceedings are initiated, before the appropriate forum/Tribunal, the same shall be considered and decided expeditiously, in accordance with law.

Needless to add, period for which the petitioner has been pursuing the matter before this Court, shall be excluded for the purpose of computing limitation.

It is made clear that we have not expressed any opinion on merits. All issues are left open.

The petition stands disposed of as withdrawn with the liberty aforesaid.

Interlocutory application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	05.08.2022
Transmission Date	

