

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.279 of 2021

1. M/s Maa Jiwachh Construction through its Prop. Anil Kumar Singh, aged about 58 years (Male), son of Devnandan Singh, Resident of Kapsia House, Ward No. 11 Saharsa, P.S. and District- Saharsa.
2. Kumar Madhusudan, aged about 28 years, Son of Shambhu Prasad Yadav, Resident of Khap Tola, Paharpur, P.S. and District- Saharsa.
3. Kamlesh Kumar, aged about 43 years, Male Son of Rasdhari Yadav, Resident of Gangjala Chowk, Ramesh Jha Road, Ward No.- 18, P.S. and District- Saharsa.
4. M/s Maa Jwala Enterprises through its Prop. Harishankar Jha, aged about 39 years (Male), Son of Hemant Kumar Jha, resident of Tiwari Tola, Saharsa, P.S. and District- Saharsa.
5. M/s Shiv Mahima Builders through its Prop. Ratnesh Jha, aged about 39 years (Male), son of Devsharan Jha, resident of Radha Krishna Nagar, Saharsa, P.S. and District- Saharsa.
6. M/s Bhawani Construction through its Prop. Bishnu Deo Mishra, aged about 59 years (Male), Son of Madan Mishra, resident of Vidyapati Nagar, Saharsa, P.S. and District- Saharsa.
7. Arvind Kumar, aged about 36 years, Male Son of Upendra Prasad Yadav resident of Tiri Padampura, Baidyanathpur, Saharsa, P.S. and District- Saharsa.
8. Sanjay Kumar Jha, aged about 48 Years, Male Son of Naresh Chandra Jha resident of Naya Nagar, Ward No. 14, Supaul, P.S. and District- Supaul.
9. Pankaj Kumar Thakur, aged about 51 years, Male Son of Kamal Nayan Thakur resident of Bihra, Saharsa, P.S. and District- Saharsa.
10. Mukesh Kumar Jha, aged about 37 years, Male Son of Jawahar Jha, resident of Lagma, Sonbarsa, Saharsa, P.S.- Sonbarsa, District- Saharsa.
11. M/s Sunrise Construction through its Prop. Ranjit Prasad Sah, aged about 47 years (Male), son of Prithwichand Sah, resident of Gamhariya, Saur Bazar, Saharsa, P.S.- Saur Bazar, District- Saharsa.
12. M/s Maa Jwala Construction through its Prop. Sutu Devi, aged about 32 years (Female), W/o Harishankar Jha, resident of Tiwari Tola, Saharsa, P.S. and District- Saharsa.
13. Pradeep Kumar Singh, aged about 53 years, Male Son of Rameshwar Prasad Singh resident of Triveniganj, Supaul, P.S. and District- Supaul.
14. Dharendra Kumar Thakur, aged about 64 years, Male Son of Tara Nand Thakur Resident of Basantpur, Birpur, Supaul, P.S.- Birpur, District- Supaul.
15. Pankaj Kumar Singh, aged about 44 years, Male Son of Mundhir Kumar Singh resident of Dhabauli, Saharsa, P.S. and District- Saharsa.
16. Rina Bharti, aged about 28 years, Female Wife of Navin Kumar, resident of Sakra Paharpur, Saharsa, P.S. and District- Saharsa.
17. Baidya Nath Roy, aged about 71 years, Male Son of Jaggy Roy, resident of Naya Bazar, Saharsa, P.S. -Naya Bazar, District- Saharsa.



18. Raj Raman Singh, aged about 44 years, Male Son of Sadanand Singh, resident of Gautam Nagar, Ward No. 11, Saharsa, P.S. and District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Principal Secretary Rural Works Department, Government of Bihar, Patna.
4. The Principal Secretary Department of Road Construction, Government of Bihar, Patna.
5. The Engineer in Chief Rural Works Department, Government of Bihar, Patna.
6. The Joint Commissioner of State Tax Saharsa Circle, Saharsa.
7. The Assistant Commissioner of State Tax, Saharsa Saharsa.
8. The Assistant Commissioner of State Tax, Supaul Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate
For the Respondent/s : Mr. Ravi Ranjan, AC to SC 22

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

5 23-03-2022 Heard learned counsel for the parties.

The petitioners have preferred this writ petition seeking a mandamus to direct the respondent to implement its decision circulated *vide* Letter No. 391 dated 29.01.2019 issued by the Engineer in Chief, Rural Works Department, Bihar, Patna.

At the outset, learned counsel has taken an objection that the petitioners should have approached the appropriate



authority before invoking the writ jurisdiction of this Court. He has referred to paragraph nos. 9 to 12 of the counter affidavit with regard to the stand of the Department regarding the cause of action espoused by the petitioners. The relevant paras 9 to 12 are reproduced below for ready reference:

“9. That it would also be relevant to state that the petitioner has not presented any claim as per the provisions made by the National Rural Infrastructure Development Agency, Ministry of Rural Development, Government of India, BRRDA, Rural Works Department, Government of Bihar vide letter no. 1059, dated 05.12.2018 of the Nodal Officer has issued guidelines to follow Circle No. GO2(117)-3201/FA dated 06.06.2018.

10. That thus as the petitioner has not submitted his claim for the payment of the differential amount, if any as per the provisions made in this regard, any action or proceeding cannot be initiated for the payment of the differentials of any.

11. That it would not be out of place to mention here that the similar issue as has been raised in the present writ petitioner has already been decided by the Hon'ble Court in CWJC No. 1452 of 2019 and the case of this petitioner is well covered under order dated 05.07.2019 passed by the Hon'ble Court in CWJC No. 1452 of 2019 and its analogous cases.

12. That in the facts and circumstances stated hereinabove it is very humbly submitted that the petitioner has not taken an appropriate step as per the provision made for the purpose. The petitioner should have made contact the Executive Engineer/Departmental Authority with his claim in accordance with the provision made in this regard as any action of proceeding for



payment of differential amount/transfer of Tax amount to the State Tax Department cannot be initiated without presentation of the claim by the petitioner.”

The petitioners are satisfied with this stand. We, thus, dispose off the writ petition that in case, the petitioners file appropriate representation before the Principal Secretary, Rural Works Department, Government of Bihar, Patna within three weeks from today, he shall take a decision thereon within four weeks thereafter.

The writ petition stands disposed off.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

P. Kumar/Anand Kr.

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