

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15715 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. Engineer in-Chief, Rural Works Department, Bihar, Patna.
4. Superintending Engineer, Rural Works Department, Works Circle Bettiah,
West Champaran.
5. Executive Engineer, Rural Works Department, Works Div. Narkatiyaganj,
West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baidya Nath Thakur, Advocate
For the Respondent/s : Mr. Ajay (G.A. 5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the
Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 20-01-2022

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. 18/2014-15
dated 19.11.2014 executed in favour of the petitioner
for construction of road under the Prime Minister
Rural Road Scheme from Balthar to Bhawari in the
district of West Champaran bearing Package No. BR-
37R-537 has been rescinded and recommendation sent

to the Engineer-in-Chief, Bihar, Patna for blacklisting the petitioner proprietorship firm.

(ii) For quashing the appellate order dated 10.08.2021 passed by the departmental Empowered Committee, after the same being called for as it was not given to the petitioner even after repeated requests made, whereby the challenge laid to the order of contract rescission dated 03.07.2021 did not succeed.

Further, a writ of Mandamus be issued;-

(iii) For direction to the Engineer-in-chief, Rural Works Department, Bihar, Patna to approve time extension up to 25.07.2016 when the construction of road under the Prime Minister Rural Road Scheme from Balthar to Bhawari in the district of West Champaran bearing Package No. BR-37R-537 was completed.

(iv) For direction to the Executive Engineer to pay the maintenance amount of Rs. 24,85,364/- to the petitioner for completion of maintenance works from the date of its commencement on 26.07.2016 to 27.06.2021 under Agreement No. 18/2014-15 dated 19.11.2014.

Furthermore, any other order(s) may be passed, direction(s) given or reliefs granted to the petitioner which he is entitled to in the facts and circumstances of the case.”

Petitioner in this writ application has assailed the order dated 03.07.2021 (Annexure-10) 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)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	