

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13373 of 2019

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Amit Kumar, S/o Sri Binay Kumar Sinha Resident of Mohalla Vijay
Nagar, PO Lohia Nagar, PS Patrakar Nagar, Kankarbagh, Dist. Patna-20

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railways, Hajipur
2. The General Manager, East Central Railways, Hajipur
3. The Divisional Railway Manager (D.R.M.), East Central Railway, Danapur, Patna
4. The Additional Divisional Railway Manager (A.D.R.M.), East Central Railway, Danapur, Patna
5. The Chief Engineer, East Central Railways, Hajipur
6. The Sr. Divisional Engineer-1, East Central Railway, Danapur
7. The Assistant Divisional Engineer (in short AEN), East Central Railway, Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Manish Sahay, Advocate
Mr. Anil Kumar Sinha, Advocate

For the Respondent/s : Mr. Awadhesh Kumar Pandey, Sr. Panel Counsel
Mr. Komal Chowbey, Advocate
Mr. Saket Anand, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2022

Heard learned counsel for the parties.

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

“(i) For quashing of order regarding



termination of contract of the petitioner with effect from 22.06.2018, issued vide letter Nos. W-7 / 22 / Misc. / NWD / Open / 2017-18 dated 11.06.2019, under the signature of Sr. Divisional Engineer (1) (i.e. Respondent No.-6) as contained in Annexure P-5, whereby and where under the said authority has been terminated the Contract Agreement No. W-7 / 22 / Misc. / NWD / Open / 2017-18 dated 30.11.2017 of the petitioner in most arbitrary manner and having ulterior motive against him.

(ii) For direction upon the concerned respondent either allow the petitioner to complete the work in question at the old rate within 10 months next (from the date of allowing the same), Or direct them to pay/refund all lawful amount including entire Earnest Money & Security Deposit amount relates to said contract of the petitioner immediately.

(iii) For declaring that the order of termination dated 11.06.2019 as contained in Annexure -P-5 is totally arbitrary, malafide, violation of principal of natural justice and contrary to the provision of the agreement as well as illegal.

(iv) For passing such an order or orders for which the petitioner is entitled under the law in the facts and circumstances of this case.

Learned counsel for the respondents placed on record the instructions dated 11.12.2022, which is extracted as under:-



East Central Railway
No. W/COURT/CWJC/13373/2019/AMITKUMAR
Sri Awadhesh Kumar Pandey,
Sr. Counsel, High Court,
Patna.

Danapur Dated: 11/12/2022

Sub: CWJC No. 13373/2019 before Hon'ble High Court, Patna. Amit Kumar v/s Union of India and others.

Ref: Your WhatsApp message dated: 02/12/2022

In reference to above the following instruction on particular point is furnished for kind perusal and taking necessary action on behalf of Union of India. It is further intimated that Counter Affidavit filed on behalf of the Railway administration may kindly be taken into account.

Status of Work of AMIT KUMAR

Name of Work: Elimination of Unmanned Level Crossing 5/c, 6, 6A, 40 & 50 by construction of Limited Height Subway in KG section
Letter of Acceptance issued on 23.08.2017
Date of Completion: 10 months (22/06/2018)
Agreement done on Date 30/11/2017

It is submitted that the petitioner/Agency didn't start the work i.e., Construction of Limited height Subway for elimination of Level Crossing after issuance of Drawing and CRS sanction. The Agency/petitioner was advised several times telephonically as well as through letters dated 09/08/2018, 17/09/2018, 26/11/2018 and 30/04/2019 by Railway (respondent) to start the work and also requested him to apply for the extension of DOC (Date of Completion) after expiration of DOC. But the petitioner neither started the work nor applied for further extension of DOC, therefore, due to no response from the agency/petitioner, Railway administration was left no other option except to terminate the contract. Accordingly, contract was terminated on 11/06/2019 as per terms and conditions of contract for which petitioner is self-responsible for non-completion of allotted work.

In the meantime, Doubling of Kiul Gaya Section has been started and IRCON has been assigned to do this work. IRCON was advised to construct these LHS along with doubling of work. Hence, this work is no longer be constructed by the Railway but by IRCON.

Hence, the request of the Agency/petitioner to allow him to complete the balance/remaining work is not agreeable to the Railway administrations at this juncture.


11/12/2022
Sr. Divisional Engineer (1)
E.C. Railway, Danapur

In view of the same, Shri P.K.Shahi, learned Senior Counsel appearing on behalf of the petitioner, under instruction from the petitioner, seeks permission to withdraw the present petition reserving liberty to initiate appropriate



appropriate proceedings in accordance with law.

As such, present petition stands disposed of
reserving liberty aforesaid.

Interlocutory application, if any, shall also stand
disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2022
Transmission Date	

