

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18585 of 2021

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Nagendra Prasad Singh Son of Pahari Ray Resident of Village- Purani
Pansapur, P.S.- Danapur, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Government of Bihar, Nirman Bhawan, Bailey Road, Patna.
2. The Chief Engineer, Building Construction Department, Government of Bihar, Nirman Bhawan, Bailey Road, Patna.
3. The Superintending Engineer, South Bihar Circle, Punai Chak, Patna.
4. The Executive Engineer, Building Construction Department, Central Division, Near High Court, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uma Shankar Tiwary, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, AG
		Mr. Syed Iqbal Ahmad (SC 20)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 26-04-2022 Petitioner has prayed for the following relief(s):-

“(I) For issuance of writ of mandamus commanding the Respondents to pay to the petitioner his admitted outstanding dues against the two works executed by him in pursuant to two Agreements with statutory interest on the dues amount from the date of cause of action till payment.

(II) For direction to the Respondents



to pay exemplary costs to the Petitioner forcing him to seek legal remedy for payment of admitted (undisputed) outstanding dues.

(III) Any other Order/ Orders as the Hon'ble Court may deem fit and proper under the facts and circumstances of the case.”

On 10th of February, 2022, we had passed the following order.

“*Prima facie*, we are of the considered view that deponent of the affidavit filed on behalf of the respondent No. 4, namely, the Executive Engineer, Building Construction Department, Central Division, Near High Court, Patna, has made a false averment.

We notice that the petition was filed only on 27.10.2021, thereafter it was registered and listed in the cause list. It is for the first time, matter is taken up by the Court. No request for early hearing of the petition was ever made and the petition is listed in its chronological order.

From the response filed by the State, we notice that it is one of those rare cases where respondent-State has filed its response annexing a document, which is extracted as under:





We have not issued any notice in the present petition. May be some direction was issued in a petition bearing CWJC No. 18581 of 2021, titled as **Lalit Kumar Gupta Vs. Bank of India & Ors.**, but then the petitioner does not claim to have filed the same.

In this view of the matter, we request the learned Advocate General to hold an enquiry in his office as to how such an affidavit could have been filed through the counsel, Mr. Syed Iqbal Ahmad, learned S.C. 20.

We also direct the Respondent No. 2, namely, The Chief Engineer, Guiding Construction Department, Government of Bihar, Nirman Bhawan, Bailey Raod, Patna to hold an enquiry in his office as to under whose direction, the affidavit admitting the dues payable to the petitioner was filed on behalf of the State.

We are constrained to pass such an order, for we notice that in all other similar matters, the State is opposing the petitions on the ground of availability of equally efficacious remedy and the disputed nature of claims set out by the petitioner.

Affidavit of compliance be filed by the respondent no. 2.

Learned counsel undertakes to communicate the order to the said respondent.

Shri Bishwa Bibhuti Kumar Singh, learned counsel who regularly assists the learned Advocate General, is present through virtual mode, we request him to inform the learned Advocate General of the passing of the order.

List on 03.03.2022.”

Learned AG states that enquiry already stands initiated and action taken against the erring officer/officials.



Hopefully, the proceedings will be completed within a period of three months from today.

After the matter was heard for some time, finding the Bench not to be in favour of the submissions made across the Bar, learned counsel for the petitioner seeks permission to withdraw the present petition, reserving liberty to approach respondent No.4, namely The Executive Engineer, Building Construction Department, Central Division, Near High Court, Patna, venting out his grievances.

Liberty granted.

We are sure as and when any such request is received, the same shall be considered and decided expeditiously and preferably within a period of three months thereafter.

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)

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