

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20764 of 2021

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M/s Maa Bindyavasini Construction through Santosh Kumar (M) aged about 44 years, son of Srikant Choudhary, resident of Patel Chowk, Gachhi Tola, Station Road, Ballia, P.O. Lakhminiya, P.S. Ballia, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Engineer in Chief Cum Special Secretary, Public Health Engineering Department, Bihar, Patna.
3. The Regional Chief Engineer, PHED, Muzaffarpur.
4. The Superintending Engineer, Public Health Engineering Department Darbhanga Circle, Darbhanga.
5. The Executive Engineer, Public Health Division, Darbhanga.
6. The Assistant Engineer, Public Health Sub- Division, Benipur District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Harsh Anuj, Advocate
For the Respondent/s	:	Mr.Arvind Ujjwal (Sc4)

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

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“For issuance of an appropriate writ(s),

order(s) or direction(s) for direction to the respondents to make the payments of amount in terms of Contract Profit Rs.60 Lacs and also to refund the security deposit Rs.24 Lacs with the interest @ 10 % per annum as the respondents have without rescinding the agreement in SBD No.02/2018-19 got the work done in 9 Wards out of 11 Wards by another agency and also to direct them the time with deviation / variation for the rest of the work in one (1) Ward.”

We are informed that the Arbitration Tribunal constituted under the provisions of the Bihar Public Works Contract Disputes Arbitration Tribunal Act, 2008 is not functional and operational.

In this view of the matter, we are inclined to accept the petitioner’s request of approaching respondent no.4, namely, the Superintending Engineer, Public Health Engineering Department Darbhanga Circle, Darbhanga, inviting attention of his grievances with respect to the agreement executed in the year 2018.

Learned counsel for the State has no objection to the same.

We clarify that we have not expressed any opinion on merits. Also the issue of maintainability of the petition is left

open.

Passing of the order shall not be construed as a precedent for the order is passed in the peculiar facts and circumstance of the instant case, more so, in view of the petitioner's previous request which are pending consideration with the authorities.

Petitioner alleges violation of principles of natural justice in the termination of his contract and in fact he stands debarred from participating in the other works of the department.

It is under these circumstances that we have passed the order.

We clarify that the authority shall take a view independent of any observations made by us.

Such view has to be based on the merits binding the parties to the agreement.

The liberty reserved to the parties to take recourse to such measures should the need so arise.

Needless to add, any request received from the petitioner shall be considered and decided within a period of two months thereafter.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.03.2022
Transmission Date	NA