

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.158 of 2022

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M/S Maa Bindhyavasini 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 Chief Engineer (Civil), PHED, Patna.
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.
7. The Junior Engineer, Public Health Section, Biraul, 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

Petitioner has prayed for following relief:-

“For issuance of an appropriate writ(s), order(s) or direction(s) to the respondents to make the payments as per the terms of the agreement in respect of Agreement No.SBD-04/2018-19 dated 10.12.2018 the remaining amount of Rs.15,36,666/- with penal interest @ 10% per annum against the amount as per the agreement i.e., Rs.20,36,666/- only Rs.5,00,000/- has been deposited in the account of petitioner without his consent and further to direct them to compensate the petitioner the amount of loss sustained by him due to their decision of non-plantation of Arsenic Treatment Plant in rest 5 wards out of 6 wards.”

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