

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1545 of 2023

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M/s Sona Construction at village Chapkahi, P.O. Basbatti, P S Supaul, District Supaul, Bihar through its partner Ashok Kumar Singh, aged about 57 years, Male, son of Late Upendra Narain Singh, resident of village Chapkahi, P.O. - Basbatti, P.S. Supaul Dist. - Supaul, Bihar.
... .. Petitioner/s

Versus

1. The Bihar State Building Construction Corporation Ltd. Patna, Bihar, through its Chairman, Patna, Bihar.
 2. The Chief Engineer, Bihar State Building Construction Corporation Ltd. Patna, Bihar.
 3. The Deputy General Manager, Bihar State Building Construction Corporation Ltd. Patna, Bihar.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Adv.
For the Respondent No. 2 to 3 : Mr. Kumar Abhimanyu Pratap, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 22-03-2023

1. The petitioner, by way of this writ petition, has prayed as under:-

“1. That this is an application on behalf of the petitioner above named seeking issuance of appropriate writ, rule or direction for;

(i) Commanding upon the Respondents, to forthwith release the payment amounting to Rs. 23,53,356/- (Rupees Twenty Three Lakhs, Fifty Three Thousand, Three Hundred and Fifty Six only) as full and final Bill, for the work executed for Bihar State Building Construction Corporation Ltd.

(ii) Commanding upon the Respondents to pay interest at the rate of 6% on the total amount which has been illegally withheld by the Respondents, even after the measurement and other works has been completed.”

2. In a recent judgment passed by the Supreme Court,



in the case of **Union of India & Ors. Vs. Puna Hinda**, reported in **(2021) 10 SCC 690**, the Supreme Court has held as under:-

“24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”

3. Learned counsel for the respondents has also informed that there is an arbitration clause. In the opinion of this Court, matters relating to disputes of releasing of payment under a contract are purely civil disputes and the same can be taken up before the Commercial Courts. After their formation under the **Commercial Court Act, 2015**, the petitioner has an efficacious alternate remedy to approach the Commercial Courts for the said purpose. Even otherwise, keeping in view the contentions raised by the learned



counsel for the respondents of their existing an arbitration clause, the writ petition is wholly barred as the petitioner has to avail remedy under the arbitration clause, for redressal of the grievance by raising a dispute under the **Arbitration and Conciliation Act 1996**.

4. This Court has already noticed the judgment passed by the Division Bench, wherein the Division Bench took note of the statement made by the Secretary, The Bihar State Building Construction Corporation Ltd., Patna, Bihar of releasing payment of the contractors. However, the Division Bench has not passed any order on maintainability of the writ petition, nor it has touched the said issue.

5. Keeping in view the judgment of the Supreme Court quoted above, the writ petition is held to be not maintainable and is, accordingly, dismissed.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 18

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

