

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.987 of 2023

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S and P Infrastructure Developers Pvt. Ltd. a registered Company having its Registered Office at N 07, New Delhi House, 27, Barkhamba Road, New Delhi 110001 through one of its Directors namely Sri Shyam Sevak Mittal, male aged about 35 years, S/o Dau Dayal Mittal Resident of 54 Ajanta Apartment, 36, I P Extension, Patparganj, I P Extension, East Delhi- 1100092
... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
 2. The Secretary, Department of Road Construction, Government of Bihar, Patna.
 3. The Executive Engineer, National Highway Division, Road Construction Department, Bhagalpur, Bihar.
 4. The Union of India through Chief Engineer Cum Regional Officer, Ministry of Road Transport and Highways, Government of India, New Delhi.
- Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal Mr. Atal Bihari Pandey Mr. Alok Kumar Jha Mr. Mukund Kumar
For the Respondent/s	:	Mr. Uday Bhan Singh, AC to GP-9

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 15-03-2023

1. Learned counsel for the petitioner prays the writ petition as under:

“(a) For issuance of a writ in the nature of mandamus directing the respondents to release payment of the admitted dues against the arbitral award issued in favour of the petitioner vide arbitral award dated 01/09/2019 passed by the learned arbitral tribunal in connection with the dispute arising out of an agreement executed by and between the



petitioner and the respondent number 3 vide agreement number 03 SBD (M)/2012 – 13 which has been affirmed by the Honorable Delhi High Court vide judgment dated 04.07.2022 delivered in O.M.P (COMM 400 of 2020 in an application under 34 of the Arbitration and Conciliation Act, 1996 filed by the respondent number 3;

(b) For further issuance of a writ or order or direction upon the respondents to pay adequate interest to the petitioner on account of illegal, unreasonable and arbitrary withholding of the dues of the petitioner payable in terms of the arbitration award the challenge to which in terms of Section 34 of the Arbitration and Conciliation Act 1996 has already been lost by the respondent number 3 on 04.07.2022 itself;

(c) For holding and a declaration that it is unreasonable, arbitrary and unfair on part of the respondents in sitting tight over the representation with legitimate grievance submitted by the petitioner on 31.10.2022 and 15.11.2021 without any rhyme and reason and also in violation of Clause 4 B of the Bihar State Litigation Policy, 2021;

(d) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of this case.”



2. This Court would not be an executive court for the execution of an arbitration award. If the respondents are not honoring the award, it is a separate forum where the petitioner can take up the remedy. The award passed by an arbitrator is like a decree of the court and execution proceedings under order 21 can be taken up before the concerned competent court as well as under Section 36 also of the Arbitration and Conciliation Act, 1996.

3. In view of the aforesaid provisions, the present writ petition for the prayers made as above would not lie and is held to be not maintainable. However, liberty for approaching the aforesaid forums is always available to the petitioner.

4. If any execution proceedings have been initiated by the petitioner, the same shall be decided positively within a period of four months thereto.

5. The writ petition stands disposed of.

(Sanjeev Prakash Sharma, J)

Gauravkr/-
Item No.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

