

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1415 of 2023

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M/s Magadh Construction Works Head Office- New Area (Nutan Nagar)
Gaya (Bihar) through its partner Ram Naresh Sharma, aged about 71 years,
Male, Son of Late Ambika Singh, Resident of Kareya Niwas, New Area,
Nutan Nagar, Gaya, Bihar- 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Work Department, Govt. of Bihar, Patna.
2. The Secretary, Rural Work Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief, Rural Work Department, Govt. of Bihar, Patna.
4. The Chief Engineer-1, Rural Work Department, Govt. of Bihar, Patna.
5. The Technical Secretary to the Chief Engineer-1, Rural Work Department, Govt. of Bihar, Patna.
6. The Superintending Engineer, Rural Work Department, Works Circle, Gaya.
7. The Executive Engineer, Rural Work Department, Works Division, Tekari.
8. Nodal Officer, Pradhan Manti Gramin Sadak Yojana, Bihar Rural Roads Development Agency, Rural Work Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Aishwarya Singh, Advocate
For the Respondent/s	:	Mr. Kumar Alok (SC-7)
For the State	:	Mr. Kaushlesh Chaudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 22-02-2023 Heard Mr. Aishwarya Singh, learned counsel

appearing on behalf of the petitioner; Mr. Kumar Alok, learned

SC-7 appearing on behalf of respondent and Mr. Kaushlesh

Chaudhary, learned counsel appearing on behalf of the State.

2. Learned counsel appearing on behalf of the



petitioner seeks permission to implead the General Manager, State Bank of India, Bailey Road Branch, Patna as respondent no. 9.

3. The petitioner is aggrieved by non-payment of dues amount of Rs. 21,12,500/- on account of work completed by him in the year 2012 under Pradhan Mantri Gramin Sadak Yojana(in short PMGSY), Patna. The Authorities have not denied the said fact. The petitioner has brought on record office order contained in Letter No. 1535 dated 10.08.2021 of the Executive Engineer, Work Division, Tekari as well as Letter No. 1594 dated 18.08.2021 a communication made by the Executive Engineer, Works Division, Tekari to the Nodal Officer, PMGSY, Bihar Rural Roads Development Agency, Patna for making payment of Rs. 21,12,500/- to the petitioner but till date said payment has not been issued by the respondent no. 8. according to the Non-Payment Certificate issued by the State Bank of India contained in Letter No. 1290 dated 14.02.2019.

4. Learned counsel appearing on behalf of the petitioner submitted that Letter No. 1535 dated 10.08.2021 and Letter No. 1594 dated 18.08.2021, the Authorities have admitted that they had issued Cheque No. 157502 dated 20.03.2013, however, but for some unknown reason the said cheque was not



presented for its credit in the bank account of the petitioner by the State Bank of India which is confirmed by the Non-Payment Certificate relating to Cheque No. 157502 dated 20.03.2013 that the same has not been debited from the account of Government. On these grounds the learned counsel further submitted that the petitioner cannot be denied payment of the admitted dues on account of having performed the work in terms of the agreement entered with the Executive Engineer, Rural Work Department, Works Division, Tekari dated 06.06.2013.

5. Learned counsel appearing on behalf of the State has vehemently opposed the prayer of the petitioner and submitted that even after issuance of the cheque as mentioned in Annexure 5 and 6, the same was not furnished for its credit in the account of the petitioner and for any laches on the part of the petitioner after lapse of nearly six years. The present writ petition is on the ground of delay and laches, is fit to be rejected. He further submitted that petitioner has also not availed his remedy before the Bihar Public Works Contracts Disputes Arbitration Tribunal.

6. Learned counsel appearing on behalf of the State Bank of India has not denied that Non-Payment Certificate has been issued by the State Bank of India as mentioned in officer



order contained in Letter No. 1535 dated 10.08.2021.

7. Considering the fact that the respondents have not denied that for any dispute, petitioner is not liable for payment. The facts reveal that it is not the petitioner who has not taken any measures to furnish the Cheque No. 157502 dated 20.03.2013 for getting it credited in his account. The fact that office order dated 10.08.2021 in Annexure-5 and the Non-Payment Certificate contained in Letter No. 1290 dated 14.02.2019 issued by the Bank and communicated to the Executive Engineer, Rural Works Department, Work Division, Tekari substantiate the claim of the petitioner.

8. Therefore, in absence of any evidence to effect, as to on whose part the cheque was not credited in the account of the petitioner standing in Punjab and Sindh Bank, Branch K.P. Road, Gaya.

9. The respondent concern and respondent No. 8 are directed to verify the records and, without taking any technical ground, are required to take measures for payment of admitted dues to the petitioner.

10. The petitioner is restricted from raising any interest for any delay caused in payment of the dues amount.

11. The above exercise is required to be completed



within the period of six weeks.

12. Accordingly, the present writ petition, stands disposed of.

(Purnendu Singh, J)

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