

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9781 of 2018

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Sadan Kumar Singh Son of late Ram Kumar Singh, Resident of Village-
Rajopatti, Police Station and District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary to the Government Rural Works Department, Bihar, Patna.
2. The Chief Engineer-IV, Rural Works Department, Bihar, Patna.
3. The Superintending Engineer, Rural Works Department, Works Circle, Muzaffarpur.
4. The Executive Engineer, Rural Works Department, Works Division, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Archana Meenakshee- GP-6

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-03-2023

None appears for the petitioner.

2. In the instant petition, petitioner has prayed for
following reliefs:-

"1. That this writ application is
being filed for issuance of an appropriate
writ/writs, order/orders, direction/directions
for grant of following reliefs to the
petitioner:

(i) For quashing of the order as



contained in letter No.1914 dated 3.01.2018 issued under the signature of Executive Engineer. Rural Works Department (hereinafter to be referred as RWD), Works Division, Sitamarhi whereby referring to some inspection report No.424/14-15 of the Account General Bihar, he has held that Rs.67,44,664.00 is recoverable from the petitioner and deducting the security deposit of Rs.8,72,631.00 directed the petitioner to deposit Rs.5,87,203.00 either in cash or through bank draft at the earliest.

(ii) For holding that the decision fixing liability of such large amount of Rs. 57,44,664.00 without involving the petitioner in any inspection said to have been held by the Accountant General Bihar or any enquiry and affording opportunity to the petitioner to contest any such fact against him and the finding thereof is bad and not sustainable in the eye of law.

(iii) For holding that no amount can be recovered from the petitioner without assigning reason for such recovery and without affording opportunity to the petitioner to contest any allegation leading to recovery of such large amount.

(iv) For holding that no letter or order of the Department show that the petitioner was ever directed or has been intimated to participate in any enquiry regarding completion/ non-completion, quality and performance of work of the contract on construction of road under contract vide package No. BR-33R-0921 or BR-33R- 009.

(v) For holding that the entire exercise of fixing liability on the petitioner



for recovery of aforesaid amount is thoroughly illegal, arbitrary and malafide.

(vi) For any other appropriate relief or reliefs to which the petitioner may be deemed entitled to."

Annexure-1 reads as under:-

**"कार्यपालक अभियंता का कार्यालय
ग्रामीण कार्य विभाग, कार्य प्रमंडल, सीतामढ़ी।**

पत्रांक 1914 दिनांक 3/01/18/

प्रेषक-

कार्यपालक अभियंता,
ग्रामीण कार्य विभाग,
कार्य प्रमंडल, सीतामढ़ी

सेवा में,

श्री सदन कुमार सिंह,
ग्राम-राजोपट्टी, जिला-सीतामढ़ी।

विषय:-अररिया से इन्दवा - II (BR-33R-09)
एकरारनामा संख्या -102SBD / 2009-10, अन्तर्गत
वसूलनीय राशि 6744664 के संबंध में।

महाशय

आप के कार्य पर महालेखाकार बिहार के निरीक्षण प्रतिवेदन संख्या- 424 / 14-15 खंड -(ख) के कंडिका 4 (ii) के तहत 6744664.00 रुपये आप से वसूलनीय है जिसमें से जमानत की राशि 872631.00 जब्त है एवं अवशेष राशि 5872033.00 रुपये कृपया अधोहस्ताक्षरी कार्यालय में नकद अथवा बैंक ड्राफ्ट के माध्यम से जो अधोहस्ताक्षरी के पदनाम से भुगतेय हो शीघ्र जमा करें।



विश्वासभाजन

कार्यपालक अभियंता
ग्रामीण कार्य विभाग,
कार्य प्रमंडल, सीतामढ़ी।"

3. Perusal of the records it is evident that the petitioner has not been heard in the matter before impugned action is taken.

4. Learned counsel for the respondent resisted the aforesaid version stating that show cause notice was issued and he had not replied. However, it is not reflected in Annexure-1 cited (supra). Therefore, one has to draw inference that there is no show cause notice and reply has been considered. Even assuming that show cause notice was issued in the event of non-filing of reply, the same is not reflected in the impugned communication. Therefore, the petitioner has made out a *prima facie* case. Hence, Annexure-1 dated 03.01.2018 stands set aside.

5. Accordingly, the present writ petition stands allowed. Reserving liberty to the concerned authority to issue a detailed show cause notice and on receipt of petitioner's reply, if any, proceed to pass detailed speaking order. The above exercise shall be completed within a period of three months from the



date of receipt of this order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.03.2023
Transmission Date	N.A.

