

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2709 of 2023

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Shailendra Kumar @ Shailendr Kumar Son of Baij Nath Singh, Resident of Village and P.O. Sedhan, P.S. Tarari, District-Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Joint Secretary, Building Construction Department, Government of Bihar, Patna.
4. The Engineer-in-Chief, Building Construction Department, Government of Bihar, Patna.
5. The Financial Advisor, Building Construction Department, Government of Bihar, Patna.
6. The Chief Engineer (South), Building Construction Department, Government of Bihar, Patna.
7. The Superintending Engineer, Building Construction Department, Building Circle, Ara.
8. The Executive Engineer, Building Construction Department, Building Division, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Advocate Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Manoj Kumar Ambastha, SC-26 Mr. Santosh Kumar Mishra, AC to SC-26

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 23-03-2023 The petitioner, by way of present writ petition, has
prayed for as under:-

“(I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for payment of remaining amount of contract of the petitioner in connection with construction of 12



Units of Presiding Officers' quarter (G+3) at Sub-Divisional Civil Court, Dehri under Rohtas District for which a Notice Inviting Tender was issued by the Respondent no.8 vide Notice Inviting Tender No. 02 of 2018-19 contained in memo no. 766 dated 04.07.2019.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent No.8 for payment of remaining amount of aforesaid contract for which the department has already issued allotment in favour of the Respondent no.8, however, despite availability of allotment since 12.03.2021, it is the Respondent no.8 who is not ready for payment of admitted dues of the petitioner for total extraneous consideration.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondents for payment of balance admitted dues of aforesaid contract with interest for the reason that for completion of aforesaid work, the petitioner had raised loan from the market on interest however due to non-payment of contractual amount by the Respondent no.8, despite allotment by the department, the petitioner has been paying interest to the persons from who, the petitioner had borrowed the loan for completion of work.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of



the case.”

During course of argument, the petitioner does not press the prayer no.3. However, this Court finds that prayer nos. 1 and 2 are with regard to seeking direction for payment of remaining amount of contract from the respondents.

Since it is an individual civil contract entered into between the respondents and the petitioner, the remedy for claiming dues under a contract, lies elsewhere and not by filing of a writ petition. Once the specific provisions have been laid down under the Commercial Courts Act for taking a disputes relating to Commercial matters, the writ petition, claiming such relief would not be maintainable before this Court.

As such, the present writ petition is dismissed as not maintainable with aforesaid liberty to the petitioner.

(Sanjeev Prakash Sharma, J)

Amrendra/-
Item No. 3

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