

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4307 of 2023

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M/s D.K. Chaudhary and Company through its proprietor namely Dharmendra Kumar Chaudhary, aged about 58 years (Male) S/o Late Chandra Narayan Chaudhary, R/o- Vill. and P.O.- Panchobh, P.S.- Bishanpur, Distt.- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secreary, Rural Works Department, Govt. of Bihar, Patna.
3. The Chief Engineer- 3, Rural Works Department, Government of Bihar, Patna.
4. The Superintendent Engineer, Rural Works Department, Work Circle, Darbhanga.
5. The Executive Engineer, Rural Works Department, Work Divison-1, Distt.- Darbhanga.
6. The Assistant Engineer, Rural Works Department, Sub Division Hanuman Nagar, Distt.- Darbhanga.
7. The Nodal Officer (M.N.P.), Rural Works Department, Bihar, Patna.
8. The Junior Engineer, Rural Works Department, Work Division, Hanuman Nagar, Dist.- Darbhanga.
9. Ravindra Kumar Sharma, S/o not known then Posted Assistant Engineer, Rural Works Department, Work Division Hanuman Nagar, Distt.- Darbhanga.
10. Bindhyawasni Prasad, S/o Not Known then posted Executive Engineer, Rural Works Department, Work Divison-1, Distt.- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kedar Jha, Advocate
For the Respondent/s : Mr. Satya Vrat, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 2 02-05-2023 Heard learned counsel for the petitioner and the State.
- Petitioner in the present case is seeking a writ in the nature of mandamus directing the respondents to refund the earnest money of Rs.2,60,000/- and deducted security money of Rs.7,82,563 of the petitioner with interest at the rate of 18%.



Petitioner claims that he has completed the work under the agreement no.15SBD 2014/15 for construction of road namely T01 to Nardaria Sahni Tola and Paswan Tola Road under MSNY [SC] 4515 M.N.P. scheme under work Division Darbhanga1.

It appears on perusal of the writ application as well as the counter affidavit that the case of the petitioner has been keenly contested by the respondents. In the counter affidavit, it is stated that on the complaint made by the petitioner that the measurement book has been manipulated just to harass the petitioner, a team was constituted to conduct an inspection of the work and based on the report of the inspecting team, further action has been taken whereby the agreement of the petitioner has been rescinded vide office order bearing letter no.759 dated 21.03.2021 and amount of security has been forfeited. Annexure- 'F' to the counter affidavit is the copy of the letter by which office order no.759 dated 21.03.2021 has been communicated to the petitioner.

Learned counsel for the petitioner has made all efforts to persuade this Court to entertain this writ application and record a finding that the petitioner has completed the work and all subsequent actions of the respondents are malafide, however,



this Court sitting under Article 226 of the Constitution of India would not endeavour to enter into disputed question of facts that too when it is found that the agreement in question has been rescinded and an order of forfeiture of security deposit has been passed as back as on 21.03.2021 vide Annexure- 'F' to the counter affidavit but the same has not been challenged by the petitioner in this writ application.

This Court also finds that in the State of Bihar the Bihar Public Works Contract Arbitration Tribunal Act, 2009 is in force and under Section 9 of the said Act, any dispute arising out of public works contract may be adjudicated by the tribunal constituted under the said Act.

This writ application is, therefore, not entertained. The petitioner is at liberty to seek his remedy in accordance with law before an appropriate forum.

(Rajeev Ranjan Prasad, J)

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