

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2650 of 2023

Pushpheera Infrastructure Pvt. Ltd. Through its Managing Director, Sri Nishant Sinha, Male, aged about 44 years, son of Suresh Shanker Sinha, having its registered office of Swaraj Bhawan, 163, East Boring Canal Road, P.S Buddha Colony, Patna -800001.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Bihar State Food and Civil Supplies Department, Government of Bihar, Patna
3. The Bihar State Warehousing Corporation Through its Chairman having its office at B/2, 1st Floor, Maurya Lok Complex, Patna
4. The Managing Director Bihar State Warehousing Corporation, B/2, 1st Floor, Maurya Lok Complex, Patna.
5. The Food Corporation of India Through its Chairman-cum-Managing Director, 16-20, Barakhamba Lane, New Delhi-110001.
6. The General Manager, Food Corporation of India, East Zone (Bihar office) having its office at J-45R GMW, Arunachal Bhawan, 4th Floor, Exhibition Road Area, Near Exhibition Chauraha, Patna-800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kunal Tiwary, Advocate
For the State	:	Md. Kamil Akhtar, AC to AAG 5
For the Respondent no.3 &4	:	Mr. Mithilesh Kr. Rai, Advocate
For the Respondent No. 6	:	Mr. Saket Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 28-02-2023 In the instant petition, petitioner has prayed for the following reliefs:-

1. (i) That the instant writ application is being filed for issuance of writ/writs, order/orders, direction/directions in the nature of Mandamus directing and commanding the respondent authorities in particularly the Respondent No. 3 to grant time extension to the petitioner pursuant



to the petitioner's request vide Letter dated 21.11.2022 for completion of the work allotted to the petitioner for construction of Godown pursuant to the Agreement executed between the petitioner and Bihar State Warehousing Corporation vide Agreement dated 29.06.2020.

ii. For issuance of writ in the nature of Mandamus directing and commanding the Respondent Authorities to grant compensation to the petitioner to the tune of Rs. 5.2 CR for the delay caused by the Respondent Authorities granting time extension due to which the Credit rating of the petitioner has been spoiled thereby restraining the petitioner from procuring loan from any financial institution and by delaying the grant of time extension, the petitioner has been put in a position whereby the petitioner's account will become Non Performing Asset which will adversely affect the subsidy granted to the petitioner by the Department of Industry, Government of India as well as the subsidy granted by National Bank for Agriculture and Rural Development (NABARD).

iii. For issuance of direction to the Respondent authorities for considering the representation of the petitioner dated 08.11.2022 by which the petitioner has requested the Respondent authorities for compensating for extra cost borne by the petitioner on the direction of the respondent authorities whereby and where under the petitioner was directed to make changes in the specification as provided by the petitioner in his tender; agreement which ultimately increased the construction cost borne by the petitioner.

iv. For any other relief/reliefs for which the petitioner is entitle to.

In terms of Clause 60 of the agreement, petitioner has remedy before the competent authority. Short question for consideration is whether the petitioner is entitled to extension of



time to execute the work or not?

It is disputed issue which cannot be adjudicated by this Court under Article 226 of the Constitution in light of the Apex Court decision in the case of *Shalini Shayam Shetty and Anr. Vs. Rajendra Shankar Patil* reported in (2010) 8 SCC 329 and *Union of India vs. Puna Hinda* reported in (2021) 10 SCC 690.

Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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DKS/-

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