

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5283 of 2020

M/s Vishal Builtech (India) Pvt. Ltd. a company incorporated under the Indian Companies Act, 1956 having its Registered office at LG-1 and 2, Majestic Plaza, West Boring Canal Road, Patna-1, through its Director Sri Vishal Kumar, aged about 41 Years (Male), Son of Sri Kartik Kumar, resident of Majestic Plaza, West Boring Canal Road, Patna- 1.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department, Govt. of Bihar, Vishweshraiya Bhawan, Bailey Road, Patna.
2. The Secretary, Road Construction Department, Govt. of Bihar, Vishweshraiya Bhawan, Bailey Road, Patna.
3. The Joint Secretary (Technical Cell), Road Construction Department, Govt. of Bihar, Vishweshraiya Bhawan, Bailey Road, Patna.
4. The Engineer-in-chief, Road Construction Department, Govt. of Bihar, Vishweshraiya Bhawan, Bailey Road, Patna.
5. The Chief Engineer (Traffic), North Bihar Wing, Road Construction Department, Government of Bihar, Darbhanga.
6. The Superintending Engineer, Road Construction Department, Road Circle, Saharsa.
7. The Executive Engineer, Road Construction Department, Road Division, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate
For the Respondent/s	:	Mr. Mahendra Pd. Verma, AC to SC-20

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

Date : 18-03-2023

Heard learned counsels for the parties.

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

"I. To issue an appropriate writ(s), order(s), direction(s) in the nature of writ of Mandamus directing the respondents to make payment of Interest @ 18% per annum to the



petitioner on the amount of 'Price Neutralization' paid on 22.02.2018 in terms of the order dated 21.11.2017 passed by this Hon'ble Court in CWJC No. 17167 of 2016 in accordance with Clause- 10 CC of the Agreement No. 05 SBD of 2009-10, although the petitioner has submitted the claim of Price Neutralization vide his letter dated 28.06.2014 itself and the same has been paid to the petitioner after much delay of about four years and that also after several rounds of litigation before this Hon'ble Court.

II. To issue any other writ(s), order(s), direction(s), as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

3. Short question for consideration in the present petition is whether petitioner is entitled to interest in the light of Clause-10CA or Clause-10CC of the agreement in the light of decision in C.W.J.C. No. 17167 of 2016 decided on 21.11.2017 that the petitioner is entitled to claim benefit under Clause-10CC. In this regard, petitioner is stated to have approached the concerned authority on 19.11.2014 and it was pending consideration before the concerned authority. Due to inaction on the part of the concerned respondent, petitioner invoked remedy before this Court in the year 2016 and thereafter the present writ petition.

4. In the light of these facts and circumstances, question for consideration is during which period petitioner is entitled to claim benefit under Clause-10CC, even though petitioner has completed work in the year 2012 and payments have



been settled on 22.02.2018.

5. In the light of these facts and circumstances, cause of action accrued to the petitioner in the year 2012 in so far as claiming any benefit under Clause-10 CC. For the first time in the year 2014 he had submitted representation and thereafter approached this Court in the year 2016. Accordingly, petitioner is entitled to have the benefit of payment under Clause-10 CC only during the intervening period from 01.01.2016 to 22.02.2018. The same shall be calculated and disbursed in favour of the petitioner with interest @ 8% *per annum*. The monetary benefits, so calculated shall be disbursed in favour of the petitioner within a period of three months from the date of receipt of this order, failing which petitioner will also be entitled to litigation cost and it is quantified @ Rs. 50,000/-.

6. Accordingly, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.03.2023
Transmission Date	N.A.

