

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5746 of 2023

Nandu Lal Jaysaval Son of Vanshidhar Jaysaval Proprietor of the Firm
Jaiswal Tent House, Resident of Village- Mahabir Asthan, Purab Mohalla,
Police Station- Bhabua, District-Kaimur at Bhabua ... Petitioner

Versus

1. The Chief Election Commission Bihar, Patna. through its Secretary, Bihar, Patna.
2. The District Election Officer-Cum-District Magistrate, Kaimur, Bhabua.
3. The Deputy Election Officer Incharge, Kaimur at Bhabua. ... Respondents

Appearance :

For the Petitioner	:	Mr.Sanjay Kumar Tiwary, Adv.
For the Respondents	:	Mr.P.K. Shahi, AG with Mr. Manishdhari Sigh, AC to AG
For the ECI	:	Mr. Siddhartha Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

12 18-12-2023

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs :

(i) A writ in the nature of certiorari setting aside the impugned letter bearing Memo No. 115 dated 25.01.2023 issued under the signature of Respondent No. 3 whereby and where under despite having submitted the vouchers with regard to work done by the petitioner against the advance money i.e. Rs. 1,88,298/- as well as more advance money given to the petitioner in the offices of Respondent No. 2 on 13.01.2011 including claim of Rs. 23,34,327/- to be paid to the petitioner but overlooking the same. The petitioner has been served the impugned letter mentioning therein that petitioner has not submitted the vouchers against advance money taken by the petitioner and further directed that the advance money will be recovered with 12.5% interest which palpably illegal in the eye of law.

(ii) For a direction upon the Respondent concerned to pay the due amount of Rs.23,34,327/- only after adjusting the advance amount of Rs. 3,00,000/- taken



as has advance regarding which petitioner submitted the vouchers regarding work done by the petitioner and in this regard petitioner has represented his claim but till date payment has not been made.

(iii) For any other or orders as your Lordships may deem fit and proper.

3. Learned counsel appearing on behalf of the petitioner has stated that except an amount of Rs.2,89,041.20 the balance amount due to the petitioner has already been paid. Learned counsel has stated that the balance amount payable by the authorities, i.e., Rs.2,89,041.20 relates to Bill Nos. 29 to 37, 42 to 44 which have not yet been paid till date. Learned counsel has stated that though the authorities have constituted a three men committee to look into the matter. The three men committee have not called for any report from the concerned Superintendent of Police or the District Magistrate and simply rejected the claim made by the petitioner solely on the ground that no work order was issued by the concerned authority for the above bills. That the three men committee instead of procuring the opinion of the concerned Superintendent of Police or the District Magistrate have mechanically passed the order rejecting the claim made by the petitioner. Learned counsel has therefore prayed this Hon'ble Court to direct the authorities to call for a report from the concerned Superintendent of Police/District



Magistrate with regard to the above mentioned bills and make necessary payments for the same.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the case and stated that the authorities concerned after due verification have paid the amounts due to the petitioner which were found to be genuine. That in so far as the amount of Rs.2,89,041.20 is concerned relating to Bill Nos. 29 to 37 and 42 to 44 are concerned, the authorities have found that either there is excess billing or there are no work orders issued by the concerned authorities, therefore, in the absence of any work orders issued by the concerned authority the three men committee constituted by the authority has recommended for rejecting the claim of the petitioner. Learned counsel has stated that the petitioner may be directed to approach the Civil Court for seeking appropriate remedy. Learned counsel has prayed for dismissal of the present writ petition.

5. A perusal of the orders passed by the authority concerned rejecting the claim of the petitioner in so far as the Bill Nos. 29 to 37 and 42 to 44 amounting to Rs.2,89,041.20 is concerned, the authorities have taken the stand that on verification, the petitioner has submitted inflated bills and that



there was no work orders issued by the concerned authorities. In the counter affidavit filed by the respondents authorities the stand has been taken that so far as Bill No. 44 is concerned though the authorities have written a letter to the concerned Superintendent of Police/District Magistrate seeking clarification, the same was not received and, therefore, three men committee has rejected the claim made by the petitioner.

6. Without going into the merits or demerits of the case, having regard to the fact that the authorities have already written to the concerned Superintendent of Police/District Magistrate seeking clarification with regard to the bills submitted by the petitioner, they ought to have waited for the response from the concerned authorities was given instead of rejecting the claim. This Court is of the opinion that the ends of justice would be met if the impugned order is set aside and the matter remitted back for taking a fresh look for passing necessary orders for making payments in respect of the Bill Nos. 29 to 37 and 42 to 44 amounting to Rs.2,89,041.20 after calling for a report from the concerned Superintendent of Police/District Magistrate. After receipt of the report, the authorities find that the claim of the petitioner is genuine they have to make necessary arrangement for paying the outstanding



due. This order does not preclude the petitioner from filing any other documents in support of the bills that he has submitted to the authority concerned.

7. With the above directions, this writ petition stands **disposed off**.

(A. Abhishek Reddy , J)

Shamshad/-

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