

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10048 of 2018

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Amit Raj Vardhan S/o Late Raghubir Sharan Verma, Proprietor of Shree Madhubir Construction, 304 3rd Floor, Hem Plaza, Fraser Road, Patna-800001.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chairman cum Managing Director, Bihar Police Building Construction Corporation, Kautilya Nagar,
3. The Chief Engineer, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna.
4. The Superintending Engineer, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna.
5. The Executive Engineer, Darbhanga Division, Bihar Police Building Construction Corporation, B.M.P.-
6. The Chief Accounts Officer, Bihar Police Building Construction Corporation, Kautilya Nagar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Bhushan Verma, Advocate
For the Respondent/s	:	Md. N.H.Khan -Sc1
		Md. Irshad, AC to SC1
For the B.P.B.C	:	Mr. Parsoon Sinha, Advocate
		Mr. Prabhat Kumar, Advocate

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

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

5 17-04-2023 In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For issuance of an appropriate writ including a writ in the nature of certiorari quashing the notice inviting tender no. 58/2017-18 published in daily Hindi news paper Hindustan on 15/03/2018 inviting tender of item no. 27 till 27/03/2018 & notice inviting tender



no. 02/2018-19 published in daily Hindi news paper Hindustan on 17/04/2018 inviting retender of item no. 26 to 30 for construction work of the same building for which contract no. 33F2 of 2011-12 and 35F2 of 2011-12 was signed by the petitioner and more than 80 to 85 percent work has already been completed but the final measurement and payment is not made as yet and also for quashing the item no. 20 & 21 published in the daily Hindi news paper Hindustan on 15/03/2018 and item no. 25 published in the daily news paper Hindustan on 17/04/2018 for which the extra work beyond the agreement was done by the petitioner after the order of appropriate authority but the final measurement and payment is not made as yet.

(ii) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondent to make payment with interest for construction work of new building of 6 U/S quarter 3 block and new building of 12 L/S quarter 3 block in Sheohar Police Line in the district of Sheohar by the Petitioner's firm namely Shree Madhubir Construction, for which contract no. 33F2 of 2011-12 and 35F2 of 2011-12 was signed by the petitioner and Executive Engineer and work order was issued by the Chief Engineer.

(iii) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondent to make payment with interest for extra work beyond the agreement which was done after the order of the then Chairman cum Managing Director, Chief Engineer and Superintending Engineer for sifting police force from Sheohar Jail Court



campus in light of the order of Hon'ble High Court passed in an another case in Sheohar Police Line in the district of Sheohar by the Petitioner's firm namely Shree Madhubir Construction.

(iv) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondent to allow and permit the petitioner to complete those semi completed work which measurement taken is not possible without compilation of work.

(v) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondent to allow and permit the petitioner to complete the rest due construction work of the contract no. 33F2 of 2011-12 and 35F2 of 2011-12 or make final measurement of the construction work in presence of the petitioner and also make payment for work executed by the Petitioner.

(vi) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondent to release the security money with interest which was deducted @ 5 percent in the head of security money at the time of part payment against the contract no. 33F2 of 2011-12 and 35F2 of 2011-12.

(vii) For issuance of an appropriate writ including a writ in the nature of certiorari quashing the cancellation order dated 08/03/2016 issued vide letter no. 546 and 547 under the signature of Sri Nandkeshwer Singh, the then Executive Engineer of Darbhanga Division, Bihar Police Building Construction Corporation, Darbhanga whereby and where under he has illegally cancelled the agreement



order of the petitioner.

(viii) For issuance of any other appropriate order/orders, direction/directions, relief/reliefs for which the petitioner may be deemed fit and proper in the facts and circumstances of the case.”

2. Learned counsel for the petitioner submitted that first prayer does not survive for consideration. Insofar as second prayer and any other dispute, the petitioner was required to invoke Clause 23 of the Agreement. Clause 23 of the Agreement reads as under:-

“Clause 23: In case any dispute of difference shall arise between the parties or either of them upon any question relating to the meaning of the specification, designs drawings and instructions hereinbefore mentioned or as to the quality of workmanship or materials used on the work, or as to the construction of any of the conditions or any clause, or things herein contained or as to any question, claim relating to or liabilities of the parties or any matter, or things whatsoever, in any way arising out of, or relating to the contract, designs, drawings, specification, estimates, instructions, order or these conditions, or otherwise concerning the work, or the execution, or failure to execute the same, whether arising during the progress of the work, or alter the completion or abandonment thereof, or as to the breach of this contract then either party shall forthwith give to the other notice of such dispute or difference and such dispute or difference shall be referred to the Chief Engineer of the Corporation and his



decision shall be final conclusive and binding on all the parties.”

3. Without exhausting such remedy, petitioner has rushed to this Court, therefore, the present writ petition stands disposed of, reserving liberty to the petitioner to invoke Clause 23 of the Agreement.

4. Pending I.A., if any, stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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