

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15126 of 2021

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Shiv Ranjan Kumar Son of Late Bidhyadhar Prasad Singh at present residing
at Harihar Chambers, Boring Road, P.S. Budha Colony, District Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department,
Government of Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Government of Bihar,
Patna.
3. The Chief Engineer-II, Rural Works Department, Patna.
4. The Superintending Engineer, Rural Works Department, Works Circle,
Bhagalpur, Bihar.
5. The Executive Engineer, Rural Works Department, Works Division,
Naugachhia, District Bhagalpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Pratik Kr. Sinha, AC to GA-5

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

Date : 28-03-2023

Heard learned counsels for parties.

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

(i) Quashing of the Letter
No. 678 dated 20.05.2020 (Annexure 6)
by which, without affording any
opportunity or issuing any Notice to
Show Cause, the Agreement No. 09SBD/
2017 – 18 dated 14.10.2017 has been
rescinded and consequently, the entire
Earnest Money, Security Deposit and the
admissible payments have been forfeited



along with the decision to get the remaining work concluded at the cost of the petitioner if there is any increase in the cost of the work; and

(ii) Restraining the respondents from giving effect to the order bearing Letter No. 678 dated 20.05.2020 (Annexure 6) during the pendency of the present writ application."

3. The Petitioner- Contractor has entered into an agreement on 14.10.2017 insofar as execution of certain works. Agreement was in vogue till 13.10.2018. In other words, petitioner was required to undertake completion of work before 13.10.2018. Admittedly, he has not completed the work before 13.10.2018. In the meanwhile, official respondents were stated to have noticed certain defects in the main bridge, like certain damages and there was a proposal of extension of time on 22.06.2018 for completion of balance assigned work. In this regard, there was protracted correspondence among the Chief Engineer and the Executive Engineer. It continued up to 18.03.2021. In the meanwhile, impugned action has been taken, like rescinding and forfeiting of EMD, security deposit. Thus, petitioner presented this petition assailing the impugned action dated 20th May, 2020, vide Annexure-6 with reference to Agreement No. 09 SBD/2017-18 dated 14.10.2017.

4. Learned counsel for the petitioner submitted that



certain correspondences were in vogue for the purpose of extension of time from 22.06.2018 among the Chief Engineer and the Executive Engineer. During pendency of correspondence among the Chief Engineer and the Executive Engineer on 20th May, 2020, impugned action has been taken. In the absence of finality insofar as extension of time to complete the work, the impugned action is arbitrary and illegal. It is further submitted that on 18.03.2021, the Executive Engineer proceeded to provide remaining work to a third party at the risk and cost of the petitioner.

5. *Per contra*, learned counsel for the respondents submitted that there is no infirmity in the impugned action dated 20th May, 2020. Petitioner has failed to complete the work within the time-limit stipulated as on 13.10.2018. Moreover, it is submitted that certain damages were stated to have been caused to the main bridge which was noticed by the official respondents. It is also submitted that number of reminders were issued to the petitioner to execute the work with reference to agreement dated 14.10.2017. In the light of these facts and circumstances, no interference is called for insofar as impugned action is concerned.

6. Heard learned counsels for respective parties.



7. Undisputed facts are that petitioner- Contractor had executed agreement on 14.10.2017 to complete assigned work before 13.10.2018 but it was not completed, so also there were certain alleged damages in the main bridge. It was taken note by the concerned official. Merely on the basis of correspondence relating to extension of time between the Chief Engineer and the Executive Engineer, the petitioner cannot take shelter for the purpose of extension of time and execution of the remaining work beyond 13.10.2018. The petitioner has not apprised this Court as to what action he has taken insofar as execution of remaining work during the intervening period from 13.10.2018 to 16.01.2020, the date on which Executive Engineer had requested the petitioner to complete the work within a period of one week. It is to be noted that respondents had patience even after lapse of one year from the cut off date. The petitioner cannot take undue advantage.

8. In the light of these facts and circumstances it is evident that there are certain lapses on the part of the petitioner in not executing the work assigned to him within the time-limit. Hence, no interference is warranted insofar as impugned action dated 20th May, 2020.

9. Insofar as communication of the Executive



Engineer dated 18.03.2021 in respect of assigned remaining work to a third party and so far as the petitioner has to take risk and cost, the petitioner has not been heard in the matter, therefore, the concerned authority is hereby directed to issue a detailed show cause notice to the petitioner and on receipt of petitioner's explanation to proceed in accordance with law in passing a detailed speaking order and communicate the same to the petitioner.

10. With the above observations, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.04.2023
Transmission Date	N.A.

