

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17512 of 2019

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M/s GSCO Infrastructure Pvt. Ltd. S.C.O.67, Sector-20C, Chandigarh through its Power of Attorney Holder, Pankaj Kumar Mishra, aged about 46 Years, (Male), Son of Late Kaushal Kishore Mishra, Resident of Rasulpur Saiyed Wazid, P.O.-Bikhanpur, P.S.-Ahiyapur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna
3. The Additional Secretary, Water Resources Department, Government of Bihar, Patna
4. The Engineer-in-Chief, Flood Control, Water Resources Department, Patna
5. The Chief Engineer, Flood Control, Water Resources Department, Samastipur.
6. The Superintendent Engineer, Flood Control Circle, Khagaria.
7. The Executive Engineer, Flood Control Division-1, Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Advocate Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar (SC11) Mr. Sriram Krishna, AC to SC11 Mr. Akash Chaturvedi, AC to SC11

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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 : 27-03-2023

In the instant petition, petitioner has prayed for the following relief:-

“i) For quashing of letter no. 1588 dated 25.07.2019 whereby and where under Additional Secretary, Water Resource Department,



Government of Bihar informed to Engineer-In-Chief that a decision has been taken by the Government to recover Rs. 5,87,73,977/- as he has been found guilty for execution of work not as per specification and without completing the work he has taken the payment. It was also directed to recover the aforesaid amount immediately from the petitioner and informed him immediately.

ii) For quashing of letter no. 2600 dated 01.08.2019 issued by Engineer-In-Chief, Flood Control, Water Resources Department, Patna directing Chief Engineer, Flood Control, Water Resources Department, Samastipur to recover Rs. 5,87,73,977/- from the contractor and inform immediately.

iii) For quashing of letter no. 955 dated 08.08.2019 whereby and where under petitioner has been informed that decision has been taken to recover Rs. 5,87,73,977/- from the petitioner therefore, in the aforesaid direction a bank draft issued in his name immediately deposit in his office otherwise the aforesaid amount shall be forfeited from security deposit of the petitioner.

iv) For any other relief/reliefs for which the petitioner is found entitled too.”



The petitioner is a contractor who had been assigned certain works which were stated to have been completed. However, despite the fact that work has completed, respondents have proceeded to recover a sum of Rs. 5,87,73,977/- (five crore eighty seven lakh seventy three thousand nine hundred seventy seven) from the petitioner on the score that petitioner was allowed to draw certain amount in the absence of execution of certain works at the relevant point of time. These are all disputed issues, which were required to be settled in the light of Clause 25 of the Arbitration Agreement. Clause 25 relates to settlement of disputes and Arbitration.

Accordingly, the impugned action of the official respondent is contrary to Clause 25 of the Agreement. Therefore, the petitioner has made out a case. Accordingly, the impugned order dated 25.07.2019, 01.08.2019 and 08.08.2019 are set aside, reserving liberty to the concerned official respondents to invoke Clause 25 of the Agreement in respect of settlement of dispute and arbitration at the earliest, since petitioner's Earnest Money Deposit (EMD) amount is lying with the official respondents to the tune of about sum of Rs. 5,50,00,000/-.

The Jurisdictional Arbitrator is requested to decide the



arbitration case in the event of filing arbitration within a reasonable period of time.

With the above observation, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Daya/
Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2023
Transmission Date	NA

