

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12140 of 2018

=====

M/s Rai Raj Construction Pvt. Ltd. Through Its Managing Director Sri Vaidya Nath Rai S/o Late Mahendra Rai, having its corporate office of Room No. 410, 4th Floor Ashiana Plaza, Budha Marg, P.S.- Kotwali, Distt- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Engineer-in-Chief cum Addl. Secretary cum Special Secretary, R.W.D., Bihar at Patna.
3. The Chief Engineer-3, RWD, at Patna.
4. The Superintending Engineer, R.W.D. Works Circle, Muzaffarpur.
5. The Executive Engineer, R.W.D. Works Division Mahanar, Distt- Vaishali.
6. The Asst. Engineer, R.W.D. Sub-Division, Mahanar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Kumari Rashmi, Advocate
For the Respondent/s	:	Mr.Kameshwar Pd. Gupta- Gp10
		Mr.Virendera Kumar, AC to GP10

=====

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

6 08-05-2023

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

“(i) For quashing the order contained in Memo No. 374 dt. 6.4.2018 passed by the respondent no.5 whereby in a pure illegal manner he, instead of foreclosing the contract and paying the outstanding bills has threatened the petitioner to take coercive actions by rescinding the contract and blacklisting his firm making false allegation the works assigned under MMGSY/civil work for constructing and widening the roads,



overlooking that the entire works in all the roads were already completed over the sites/spaces available, and there is no further space remained available over which any further work could be carried out, but knowing all the actual state of affairs, under vested interests, respondent no.5 has issued such orders, overlooking that the reason assigned while issuing the impugned order/letter is nonest and patently arbitrary and illegal, thus it may be quashed, directing the respondent no.5 to make final measurements in presence of the petitioner and pay the outstanding dues of the bills along with statutory interest, as the roads are under DLP, which becomes difficult to maintain in absence of payments of outstanding dues for the work done long ago.

(ii) For declaring the impugned order/ letter as nonest under reason that without physical measurement firstly the DPR of all the Roads were prepared on the basis of imaginary calculations without ascertaining the actual length & width of Roads for construction and NIT was issued and despite pointing out such effects since very inception regarding short length and width at some places, insisted of revising the BOQ, they coerced to complete the work and now after completion of entire works, the respondents are taking the false plea of none completion of the roads over entire length and width, though there no space at and instructing the petitioner to submit the final bill accordingly on such imaginary calculations is bad as the petitioner being a reputed contractor is not supposed to place imaginary bill, thus



in such vengeance the present letter is issued to coerce the petitioner to either succumb and submit the bill as per their wish or face the music, hence protection from this hon'ble court may be accorded, which may be in the interest of public exchequer also, and further during pendency of this reference the operation of impugned letter may be stayed.

(iii) For directing respondent to foreclose the contract and make payments of the due bill making final measurement in presence of the petitioner, as there is no further scope or space/site available over which any further construction could be made.

(iv) For staying the impugned order/ letter dated 6.4.2018 contained in letter no. 374 restraining the respondents from taking any further coercive action in pursuance of the impugned letter.

(v) For granting any relief /reliefs for which the petitioner may be found entitled in the eye of law.”

2. Learned counsel for the petitioner on instructions submitted that prayer no. 1 and 2 do not survive for consideration. Prayer no. 3 is only for a direction, to the extent that petitioner has executed the contract work and the concerned respondent was required to make payments.

3. In this regard, the matter is pending consideration before the 5th respondent – Executive Engineer, Rural Works Department, Works Division Mahanar, Vaishali. The Executive



Engineer is hereby directed to decide on the grievance of the petitioner within a period of two months from the date of receipt of this order.

4. If the petitioner is otherwise not eligible, in that event, necessary detailed speaking order shall be passed after due notice to the petitioner.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

U			
---	--	--	--

