

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23052 of 2013

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M/s C.P. Singh and Company Son Of Late Mukhtar Singh Resident Of
Village P.O.- Kinjar, P.S.- Kinjar, District- Arwal

... .. Petitioner

Versus

1. The Patna Municipal Corporation through Town Commissioner, Maurya Lok Complex, Block-C, Patna-1.
2. The Town Commissioner, Patna Municipal Corporation, Patna- 1.
3. The Chief Engineer, Patna Municipal Corporation, Patna.
4. The Executive Engineer, Prda Dissolved, Division- F, Patna Municipal Corporation, 4th Floor, Block- C, Campus Of Maurya Lok Complex, Patna-1.
5. The Assistant Engineer, Posted Under Division- F Of Patna Municipal Corporation, Patna- 1.
6. The Junior Engineer, Posted Under Division-F Of Patna Municipal Corporation, Patna- 1.
7. The Chief Accounts Officer, Patna Municipal Corporation, Patna- 1.
8. The Vigilance Investigation Bureau, Vigilance Department, Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate
For the P.M.C.	:	Mr. Prasoon Sinha, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Spl. PP, Vigilance

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 06-09-2024

1. The Writ Petition is filed directing the respondents to pay the admitted dues to a tune of Rs. 36,79,155/- (Thirty Six Lakhs, Seventy Nine Thousand, One Hundred & Fifty Five) to the petitioner in respect to the work, namely, ***“De-silting of Saidpur Nala and Disposal of silt (mud from Shivam Apartment to Pahari Sump House)”*** which was successfully done by the petitioner to the



satisfaction of the respondents concerned. Further, to direct the concerned respondents to pay an interest @ 18% per annum to the petitioner for the aforesaid amount from the date of work till the date of realization.

2. The brief facts of the Writ petition are that in the light of Notice Inviting Tender, published in '*Hindustan*' and '*Dainik Jagran*' newspapers on 03.04.2008, the petitioner participated in the tender on 10.04.2008 and was declared successful bidder, who quoted the lowest estimated cost of the work. Pursuant to the bid, the petitioner entered into an agreement with the respondents and the respondents allotted the work *vide* Letter No. 16 dated 19.04.2008 in favour of the petitioner. On 05.05.2008, the petitioner entered into another agreement, bearing Tender No. 55/F/2008 with the 4th respondent i.e., Executive Engineer, and the agreement value of the work was Rs. 64,04,092/- (Sixty Four Lakhs, Four Thousand & Ninety Two). Pursuant to it, *vide* Letter No. 79 dated 10.05.2008, a work order was issued to the petitioner and he was directed to contact the Assistant Engineer/Junior Engineer for the allotment of site and for taking up of the work. As per the work order, the stipulated time of work was



two months. Accordingly, the petitioner completed the work in respect of Item Nos. 1 & 2 of the agreement and some of part of Item No. 3 and thereafter, the 1st running on A/C bill was prepared by the concerned Junior Engineer to the tune of Rs. 36,79,155/- (Thirty Six Lakhs, Seventy Nine Thousand, One Hundred & Fifty Five) on the basis of the measurement taken by him on the site. The Account Book was passed by all the concerned authorities, including respondent Nos. 4 and 5. The bill was checked and passed by all the concerned authorities, which was fully done to their satisfaction and the photographs were also submitted. It is further alleged in the Writ petition that some part of Item No. 3 of the aforesaid agreement remained pending for the execution, which could not be done within the stipulated time, due to lack of directions of the concerned authorities, and other factors, such as heavy rainfall and also due to non-payment of aforesaid bill by the Corporation.

3. Later, the petitioner approached respondent No. 4 for payment of the bill and also made representations. In spite of it, no payment was made, for which the petitioner was constrained to file CWJC No. 16240/2008, which was



disposed of by this Court dt. 07.01.2010. In the said order, this Court directed the respondents to settle the bill of the petitioner, where there was no dispute, within the time period of three months. As far as Item No. 3 was concerned, this Court left open to the petitioner to raise the grievance before the appropriate authority.

4. As the order the Court was not complied, the petitioner was again constrained to file a contempt application *vide* MJC No. 2817 of 2010 and in the said contempt application, the respondent-Corporation filed a show cause notice wherein it took a stand that *vide* order dated 15.10.2008, Vigilance Investigation Bureau was directed to enquire into the matter of De-silting Work of Corporation and as the report of the Investigation has not been received, the payment could not be done. This Court disposed of the contempt application *vide* order dated 03.08.2011, taking note of the facts as follows:-

“Counsel for the Corporation seems to be correct in stating that there is an impediment created by the order of a Division Bench in making payment to the petitioner at this stage. They have to await the outcome of the vigilance report on the count of the work of de-



silting which has been carried out in the town of Patna, which also includes the work done by the petitioner.”

5. Subsequent to the disposal of the contempt application, the Vigilance Investigation Bureau submitted its report before the Division Bench in CWJC No. 6192 of 1997 and this Court was pleased to pass an order dated 26.04.2010 disposing of CWJC No. 6192 of 1997 with the directions to improve proper drainage system and water logging.

6. In spite of the orders of this Court and even after receiving the Vigilance Inquiry Report, the respondents did not make any payment to the petitioner for which he was constrained to file the present Writ petition.

7. Respondent Nos. 4 to 6 have filed their counter, admitting all the facts which were stated by the petitioner in the Writ petition and the synopsis of the counter disclose that the impediment created by the order passed by the Hon'ble Division Bench of this Court as such, payment cannot be made to the petitioner against the claim.

8. Further, supplementary counter affidavit was filed by respondent Nos. 4 to 6, admitting the outstanding dues to the petitioner. It was contended that the admitted dues will be paid immediately after the release of the aforesaid amount. It



is further contended that Vigilance Investigation Bureau, Vigilance Department Bihar, Patna on 21.06.2024 closed the enquiry *vide* Letter No. 1245 dated 22.11.2021 stating *inter-alia* that no material was found related to misappropriation of the fund in the matter concerned against the petitioner or the Officials of the Patna Municipal Corporation. Thereafter, Letter No. 1149 dated 02.08.2024 was issued by the Executive Engineer, Kankarbagh Division, Patna Municipal Corporation to the Chief Municipal Engineer, Patna Municipal Corporation, requesting him to make available the bill amounting to Rs. 36,79,155/- to enable for the payment to the petitioner.

9. Heard Learned counsel for the petitioner and Learned counsel for the respondents.

10. It is contended by the Learned counsel for the respondents that the petitioner is entitled to the admitted dues, but as no amount was available with them, they could not pay the admitted dues to the petitioner and further reported to this Court that as and when the amounts are released to the Corporation, they shall pay the amount. Admittedly, the work



was executed by the petitioner in the years 2008, and the amount is not paid till the year 2024.

11. Taking into consideration the admission of the respondents, no doubt that the petitioner is entitled to the admitted dues. Therefore, this Court directs the Corporation to pay the admitted dues to the petitioner i.e. Rs. 36,79,155/- (Thirty Six Lakhs, Seventy Nine Thousand, One Hundred & Fifty Five) within three months from the date of receipt of this order and further the petitioner is also entitled for 9% simple interest on the admitted dues from the date of work till the date of realization.

12. With the aforesaid observations, the Writ petition is allowed.

13. Interlocutory application(s), if any, shall also stands disposed of.

(G. Anupama Chakravarthy, J)

Shanu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2024.
Transmission Date	NA

