

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9116 of 2021

Rajiv Kumar, Son of Late Ram Chandra Prasad Bhagat, Resident of Panchvati Chowk, Gangjala, Ward No.18, P.S.- Saharsa, District- Saharsa, Proprietor of Vijayshree Press, Saharsa, Panchvati Chowk, Gangjala, Ward No. 18, P.S.- Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary Govt. of Bihar, Patna.
3. The Chief Election Officer Bihar, Patna.
4. The Additional Chief Secretary Finance Department, Govt. of Bihar, Patna.
5. The Commissioner Kosi Division, Saharsa.
6. The District Magistrate-Cum- District Election Officer Madhepura.
7. The Deputy Election Officer Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prashant Sinha, Adv.
For the Respondent/s : Mr. Gayan Prakash Ojha, GA 7

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

18 23-10-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

“(i) For issuance of necessary direction upon the respondent authorities for making payment of the remaining amount of the bill of the petitioner to the tune of Rs. 3,45,08,081/- on account of supplies made by the petitioner to the District Administration, Madhepura during the Bihar Legislative Assembly Election, 2020 pursuant to the tender notice No. 01/2020 published by the District Magistrate-Cum-District Election



Officer, Madhepura.

(ii) For holding that the petitioner had submitted his bill to the tune of Rs. 10,78,64,700/-, a committee constituted by the District Magistrate found the petitioner entitled for payment of Rs. 7,14,00,000/-, out of which Rs. 2,95,00,000/- was paid in advance and Rs. 73,91,919/- was paid after submission of bills and the rest amount of Rs. 3,45,08,081/- was kept pending for want of allocation and even after receipt of allocation, the amount was not paid by the District Administration, Madhepura.

(iii) For necessary direction upon the respondent authorities to make payment of the aforesaid amount along with interest @18% per annum as the District Administration, Madhepura has delayed the payment without any rhyme and reason.

(iv) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner has stated that under the similar circumstances this Court vide order dated 18.04.2024 in CWJC No. 12030 of 2021 has set aside the impugned orders therein and remanded the matter back to the authority concerned for putting the petitioner



on notice afresh, give him an opportunity of hearing and pass necessary orders. Learned counsel has stated that as against the total bill of Rs. 10,78,64,700/- submitted by the petitioner, the authorities have constituted a three men committee who have deducted an amount of 3,64,64,700/- and the balance amount payable to the petitioner was Rs.7,14,00,000/-. Learned counsel has stated that out of the above amount of Rs.7,14,00,000/-, the authorities have initially paid an amount of Rs.2,95,00,000/- and thereafter another installment of Rs.73,91,919/- has been paid to the petitioner, the balance amount payable to the petitioner out of Rs.7,14,00,000/- is Rs.3,45,08,081/-. The authority instead of paying the said amount have thereafter constituted a six men committee and the six men committee has issued a fresh report stating that the total amount payable to the petitioner is only Rs.3,68,10,592/- received vide Memo No. 288 dated 13.04.2021 (Annexure 9 to the I.A. No. 01 of 2021). Thereafter the petitioner received another Memo No. 411 dated 06.07.2021 (Annexure 11 to the I.A. No. 02 of 2021) directing him to deposit an amount of Rs.15,37,026/- back to the authority towards the excess amount paid. Learned counsel has stated that the constitution of six men committee without rejecting the earlier report of the three men committee which was accepted



and the payment was made to the petitioner is totally against the principles of natural justice and equity. Learned counsel has further stated that the petitioner was never put on notice nor given an opportunity of appearing before the authority concerned before the report was submitted by the six men committee. Learned counsel has therefore prayed this Hon'ble Court to set aside the impugned orders and direct the authorities to make the necessary payments.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition. Learned counsel has stated that there are disputed questions of facts which cannot be gone into the present writ petition adjudicating under Article 226 of the Constitution of India. Further learned counsel has stated that the six men committee duly taking into consideration the bills submitted by the petitioner has recommended for reduction of the bills and the same does not call for any interference. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

5. Under similar circumstances, this Court vide order dated 18.04.2024 in CWJC No. 12030 of 2021, in paragraphs 5 and 6 has held as under:-



“5. A perusal of the documents more particularly the documents filed by the petitioner reveal that the authority has initially constituted a three men committee which has given a report recommending that the petitioner is entitled to a sum of Rs.3,65,00,000/-, however, the full amount was not paid to the petitioner. Thereafter, the respondents have taken decision to set-up a six men committee which has submitted report stating that the petitioner is not entitled to payment of any further amount. There is no reason forthcoming as to why the report of the three men committee was disbelieved by the authority and as to why the six men committee has been constituted. More over, as seen from the report neither the six men committee nor the authority concerned has given any prior notice to the petitioner seeking his clarification or any response before issuing the impugned memo rejecting his claim and the same has to be held to be violative of principles of natural justice and equity. Learned counsel for the petitioner has placed on the record several documents to show that the bills submitted by the petitioner very well supported by work orders. Had the authority given an opportunity to the petitioner he could have clarified the doubts raised by the committee. But the entire exercise has being conducted behind the back of the petitioner, without



putting the petitioner on prior notice or giving him an opportunity of submitting his claim or clarifying the doubt, if any, that the committee had. The authorities are expected to act in fair manner whenever they are exercising their power and cannot be expected to behave in an arbitrary way more so after extracting the work from the contractor. Having extracted the work, they are expected to clear the bills in a time bound manner and the contractor should not be denied the payment for years together or take some technical objections for rejecting the claims.

6. Having regard to the above facts and circumstances, this Court is of the opinion that the ends of Justice would be served if the impugned memo no. 289 dated 13.04.2021, is set aside the matter remanded back to the authority concerned for reconsidering the bills submitted by the petitioner. Accordingly, memo no. 289, dated 13.04.2021, is set aside. That before taking any decision the authority shall put the petitioner on notice and give her an opportunity of hearing. The authority shall take a decision independently of the report of the six man committee.”

6. Having regard to the above facts and circumstances, this Court is of the opinion that the ends of



justice would be served if the impugned Memo No. 288 dated 13.04.2021 and Memo No. 411 dated 06.07.2021 are set aside and the matter remanded back to the authority concerned for reconsidering the bills submitted by the petitioner. Accordingly, Memo No. 288 dated 13.04.2021 and Memo No. 411 dated 06.07.2021 are set aside. That before taking any decision the authority shall put the petitioner on notice and give him an opportunity of hearing. The authority shall take a decision independently of the report of the six men committee. The refund of the amount of Rs. 15,37,026/- paid by the petitioner under protest vide Annexure 13 of the I.A. 02 of 2021 shall also be considered by the authority and paid to the petitioner.

7. The entire exercise shall be completed as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

8. With the above direction the Writ Petition stands disposed of.

(A. Abhishek Reddy, J)

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