

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5164 of 2023

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Nilesh Kumar Son of Thakur Prasad Bhagat, Resident of Village-
Maharajganj, P.S.- Jamui, and District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Minor Water Resource Department, Govt. of Bihar, Patna.
2. The Chief Engineer, Minor Water Resource Department, Govt. of Bihar, Patna.
3. The Executive Engineer, Minor Water Resource Department, Govt. of Bihar, Patna.
4. The Circle Officer, Khaira, Jamui.
5. The District Magistrate, Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Advocate
		Mr. Akash Raj, Advocate
For the Respondent/s	:	Md. Nadim Seraj, GP-5

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-04-2024

The petitioner was awarded a work for the renovation of a pond, which work was awarded on 11.11.2019 on which date the work order was issued. The work had to be completed within the period 2019-2020. From the initial stage there were objections by locals and in such circumstances, the petitioner could not commence the work despite mobilization of men and materials. Repeated



request were made to the authorities, but the authorities did not do anything to remove the objections. A writ petition was filed before this Court pending which the authority issued a communication dated 12.07.2023, which is produced as Annexure-P/3 in I.A. No. 01 of 2023 and challenged by the petitioner.

2. Learned Government Advocate on instruction submits that the work was abandoned as a non-starter project as per the decision taken in a meeting presided over by the Chief Secretary as is revealed from Annexure-I produced along with the supplementary counter affidavit. The petitioner's project is one of the projects included among the fifty projects which was abandoned as non-starter.

3. The petitioner has challenged the decision of 12.07.2023 taken at the meeting presided over by the Chief Secretary to abandon the project.

4. We are of the opinion that it is for the awarder, the State to decide as to whether, the work has to be carried out or not. However, when the work was abandoned in the year 2023 after the award of 2019,



necessarily the amounts paid by the petitioner has to be refunded. We see from the supplementary counter affidavit filed by the respondents that the earnest money deposit and the additional earnest money deposit coming to Rs. 4,33,000/- and Rs. 8,12,000/- were accepted as fixed deposits for which the petitioner would receive his interest.

5. If the amounts have been given in the form of fixed deposit with lein marked to the department necessarily, the receipts have to be returned to the petitioner and in which circumstance, the petitioner would be entitled to the interest on the fixed deposit also. If however, the money has been deposited with the department and the department has made the fixed deposit, the earnest money deposited along with interest would be refunded to the petitioner.

6. In fact, the petitioner has a contention that the petitioner has mobilized men and materials and had spent considerable amounts of money for the same. It is also stated that the work could not be commenced because of the objections raised by the locals which despite intimation to the authorities, the authorities did nothing to remove it. If



the petitioner has any claim of damages insofar as the mobilization is concerned, the petitioner would have to seek arbitration.

7. Leaving such remedy, the writ petition stands disposed of upholding the abandoning of the project but however, directing refund as indicated above.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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CAV DATE	
Uploading Date	23.04.2024.
Transmission Date	

