

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5645 of 2024

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M/S R K Tech a proprietorship firm, having its registered office at NH- 28A, Bankat Bairiya, P.S. - Muffasil, P.O. - Motihari, District- East Champaran- 845401 through its proprietor Mr. Raj Kumar Tripathi (male), aged about 44 years, Son of Ram Babu Tripathi, resident of Rajpur, P.O.- Rajpur, P.S.- Kesaria, District - East Champaran, Bihar - 845432.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchyati Raj Department, Government of Bihar, Patna.
2. The Principal Secretary, Panchyati Raj Department, Government of Bihar, Patna.
3. The State Election Commission Bihar through its Secretary, State Election Commission Bihar, Government of Bihar Patna.
4. The Secretary, State Election Commission Bihar, Government of Bihar, Patna.
5. The District Election Officer-cum-District Magistrate, Sitamarhi, Bihar.
6. The District Deputy Election Officer (Panchayat)-cum-District Panchayat Raj Officer, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Adv.
	:	Mr. Sumit Kumar Jha, Adv.
	:	Ms. Riya Giri, Adv.
For the Respondent/s	:	Mr. Sajid Salim Khan, Standing Counsel (25)
	:	Mr. Arif Daula Siddique, AC to SC25

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

Date : 10-09-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

*“i) To issue a writ/ order/ direction
in the nature of Mandamus for direction to the
Respondent Authorities to release the due
payment of the petitioner to the tune of
Rs.1,97,04,766/- for successfully completing
the work in relation to the Short Term Tender
Notice (PR-05657 Election 2020-21), the*



agreement dated 16.10.2020 and all the work orders, with interest.

ii) To hold and declare that the petitioner is eligible to receive the due payment of the petitioner to the tune of Rs.1,97,04,766/- for successfully completing the work in relation to the Short Term Tender Notice (PR-05657 Election 2020-21), the agreement dated 16.10.2020 and all the work orders, with interest.

iii) To hold and declare that also in terms of Section 70 of Contracts Act, 1872 the claim of the petitioner is liable to be allowed and that action of the Respondent Authorities is contrary to the same.

iv) To hold and declare that the action / inaction of the Respondents authorities in not making the due payment of the petitioner to the tune of Rs.1,97,04,766/- for successfully completing the work in relation to the Short Term Tender Notice (PR-05657 Election 2020-21), the agreement dated 16.10.2020 and all the work orders, with interest is unjust, arbitrary, malafide and perverse.

v) To hold and declare that the action / inaction of the Respondents authorities in not making the due payment to the tune of Rs.1,97,04,766/- after the petitioner successfully completed the work in relation to the Short Term Tender Notice (PR- 05657 Election 2020-21), the agreement dated 16.10.2020 and all the work orders, with interest is violative of Article 14, 19(1)(g) and 300 A of the Constitution of India.

vi) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

3. It is the case of the petitioner that pursuant to the

work order issued to the petitioner, the petitioner had been entrusted with the work of preparing the voters list, photo IDs and other allied works related to the election. That an agreement was



entered between the parties on 16.10.2020 (Annexure-P/3). The rates payable to the petitioner for the work entrusted were also prescribed in the said agreement. After the work was completed, the petitioner was given a completion certificate dated 17.05.2022 (Annexure-P/6). Subsequently, the elections were held on different dates spread over the month of September & October and successfully completed. That the petitioner in the month of October, 2021 submitted the bills (Annexure-P/7 series) however, the bills were not paid. That in the month of August, 2022, the petitioner received a communication from the respondents (Annexure-P/9) seeking clarification with regard to submission of the प्रपत्र-क (Form-K) to which the petitioner had given a suitable response. Even thereafter, the petitioner was not paid the bill amounts due to him. The petitioner then applied under the Right to Information Act, 2005 (RTI) (Annexure-P/12 series) seeking reasons for non-payment of the bill amounts due to the petitioner. The petitioner received the reply vide RTI disclosing for first time that the Committee has been constituted by the respondents to verify the bills submitted and the said Committee has recommended for deduction of the bill amounts due to the petitioner on the ground that the purported प्रपत्र-क (Form-K) has not been submitted by the petitioner.



4. Learned counsel for the petitioner has stated that the constitution of the Committee, the enquiry conducted by the Committee and the report submitted by the Committee were all done behind the back of the petitioner, without putting him on notice or seeking any clarification. Thereafter, the petitioner has given a representation to the authorities vide (Annexure-P/15) clarifying the bill amounts due to the petitioner but till date, the authorities have not paid the bill amount of Rs. 1,97,04,766/- out of total bill amount of Rs. 2,18,34,756/- due to the petitioner.

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner did not complete the work as per the terms of the agreement. Learned counsel for the respondent has stated that the authority with a view to ascertain the actual work done by the petitioner had constituted a three men Committee and the Committee after due verification were of the view that an amount of Rs. 48,07,859/- only needs to be paid to the petitioner. That the authority duly taking into consideration the recommendations of the Committee which has gone into the issue and reduced the amount payable to the petitioner to Rs. 48,07,589/-. Learned counsel has therefore, sought dismissal of the present writ petition.



6. In the counter-affidavit filed by the respondents while admitting that the petitioner has been entrusted with the work and the agreement entered, it is however, stated that as per the recommendations of the Committee, an amount of Rs. 48,07,859/- was only payable. That out of the said amount an amount of Rs. 21,99,999/- has already been paid to the petitioner and the balance amount of Rs. 26,77,860/- will be paid soon after the allotment of funds.

7. After the counter-affidavit was filed by the Respondent Nos. 05 & 6, this Court vide Order No. 04 dated 07.08.2024 has passed the following order;

“Learned counsel for the respondents seeks time for getting necessary instructions as to whether the committee constituted by the District Magistrate had put the petitioner on notice and any documents were called from the petitioner while recommending the amounts payable to the petitioner for the work which admittedly has been completed as per the Certificate No. 1150 (Annexure-P/6).

Post this matter on 30.08.2024.”

8. Subsequently, the respondents have filed a supplementary counter-affidavit wherein, they have clearly admitted that the Committee before making the recommendations had not given any prior notice to the petitioner or sought any



clarification from the petitioner before making the recommendation for reduction of the bills amounts.

9. Learned counsel for the petitioner has relied on the following two judgments reported in **2024 (1) BLJ 370 & 2023 (5) BLJ 799** to contend that once the work has been completed by the petitioner without there being any complaint and completion certificate issued, the authorities thereafter, cannot dispute the work done by the petitioner and deny the rightful payments to him. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and direct the respondents to pay the bill amounts as raised by the petitioner.

10. It is pertinent to note that in the counter-affidavit filed by the respondents, there is no allegation about the non-completion of the work by the petitioner or on what basis the Committee has fixed the value on the प्रपत्र-क (Form-K). Admittedly in this case the elections were completed successfully and the District Deputy Election Officer (Panchayat)-cum-District Panchayat Raj Officer, Sitamarhi i.e., Respondent No. 6 has issued a certificate of completion dated 17.05.2022 and in the said letter also there is a reference to प्रपत्र-क (Form-K) having been completed by the petitioner. As rightly pointed out by the learned counsel for the petitioner, after the completion of the work, the



प्रपत्र-क (Form-K) will be with the concerned department and not available with the petitioner. Once the work entrusted to the petitioner is completed and the elections are successfully held, the authorities on the ground that the work was not completed cannot deny the payment or reduce the quantum of the payments due to the petitioner. If they had any grievance about the non-completion of the work entrusted to the petitioner, they should have immediately raised the issue with the petitioner, but not after completion of the election. There is no answer forthcoming from the respondents as to how they have conducted the elections successfully in the absence of the प्रपत्र-क (Form-K). The authorities on the ground that the petitioner has not submitted the प्रपत्र-क (Form-K) or not completed the work related to प्रपत्र-क (Form-K) cannot deny the payments due to the petitioner more particularly in the teeth of the letter dated 17.05.2022 issued by the Respondent No. 6. Further as seen from the pleading and the admission made by the authority in the supplementary counter-affidavit, the recommendations of the Committee are behind the back of the petitioner without putting him on notice or seeking any clarification and therefore, violative of the principles of natural justice and equity.



11. This Court in CWJC No. 3138 of 2023 with analogous case dated 28.07.2023 reported in **2023 (5) BLJ 799** has held as under;

“5. Admittedly, in the present Writ Petitions the petitioners have completed the works allotted to them within the stipulated period and, thereafter, submitted the bills. However, the authorities concerned have not paid the bill amounts due to the petitioners within reasons period.”

12. And also in CWJC No. 11399 of 2015 dated 11.10.2023 reported in **2024 (1) BLJ 370** has held as under;

“The authorities cannot sit over the payments of the bills for decades together on some vague and frivolous grounds. Once, the work is completed, the authorities are bound to pay the amounts due to the petitioner even if there were any discrepancies or shortcomings in the execution of the work, the authorities concerned ought to have taken necessary action against the petitioner immediately after submissions of the bills but they cannot sleep over the matter for years together and come up with vague excuses after 17 years conducting of the enquiry by the authorities after more than 17 years cannot be countenanced by which time the toilets constructed by the petitioner have become dilapidated and in some cases have been destroyed by the villagers is also admitted by the respondents in their counter-affidavit. Therefore, the enquiry is nothing but a sham exercise conducted by the authorities concerned only to deprive the petitioner from lawful amounts due to him. The authorities having extracted the work from the petitioner are expected to pay the bills in a time-bound manner and cannot take years together to pass the bills.”



13. Having regard to the above mentioned facts and circumstances, this Court is of the opinion that the constitution of the Committee, the deliberation of the Committee and its recommendations for reduction in the bill amount behind the back of the petitioner without putting the petitioner on notice are in violation of the principles of natural justice and equity and, therefore, have to be necessarily set aside. The denial of the total payments due to the petitioner by the authority concerned for the work already completed is illegal, arbitrary exercise of power contrary to the terms of the agreement and the same cannot be countenanced. The respondents are directed to make the total payments as per the bills submitted by the petitioner as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2024.
Transmission Date	NA

