

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23388 of 2013

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Akash Kumar Singh Son Of Sri Rajkumar Singh Resident Of Village
Ghaghat, P.S. Krishnagarh Barhara, District Bhojpur

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Veer Kuwar Singh University, Ara Through Its Registrar
3. The Principal Harprasad Das Jain College, Ara
4. The Executive Engineer, Housing Development Department, Ara Bhojpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ravindra Kumar
For the University	:	Mrs.Nutan Sahay
For the Respondent/s	:	Ms.Nivedita Nirvikar

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY**

ORAL JUDGMENT

Date : 08-05-2024

This petition is filed for issuance of an appropriate Writ in the nature of Mandamus commanding the respondents to make payment of the dues of Rs. 7,98,401 for the extra construction work done beyond the estimated tender value in Harprasad Das Jain College, Ara (hereinafter ‘the College’) with an interest of 18% per annum till the date of realization.

2. The brief facts culled out of the writ petition is that on 04.09.2010 an advertisement for obtaining the tender documents and Bill of quantity for construction of Administrative Building was published in a local newspaper “Bhojpur Kanth” issued under the signature of respondent no. 3. The petitioner after duly



adhering to the procedure prescribed submitted his tender and the Tender Committee on 17.09.2010 allotted the work of the construction work of the Administrative Building of the College to the petitioner. The copies of advertisement and allotment are annexed with the petition as Annexures-1 and 2.

3. Pursuant to the allotment, the petitioner started the construction work of the Buildings and also made some additional construction work, excess to the estimate and the total cost comes to an amount of Rs. 47,15,650/- (Rs. Forty Seven Lakh Fifteen Thousand Six Hundred Fifty) and thereafter, petitioner produced a Bill for Rs. 47,15,650/- (Rs. Forty Seven Lakh Fifteen Thousand Six Hundred Fifty), but the respondents have paid only Rs. 39,17,249/- (Rs. Thirty Nine Lakh Seventeen Thousand Two Hundred Forty Nine) and the remaining amount of Rs. 7,98,401/- (Rs. Seven Lakh Ninety Eight Thousand Four Hundred One) was not paid.

4. Being aggrieved by the said act, the petitioner has issued legal notice to the respondent no. 3 the Principal of Harprasad Das Jain College, Ara for making the payment for the additional work done by him which was not covered under the agreement/contract. The Junior Engineer also prepared the bill,



after due investigation reported that extra works were done by the petitioner.

5. A detailed counter affidavit was filed by the respondent nos. 2 and 3.

6. It is also contended in the counter affidavit of the respondent no. 2 that as the Principal of the College is also party in this case, he is the competent person to reply to the allegation of the petitioner. The University has been made as a formal party.

7. The counter affidavit filed by the respondent no. 3 reveals that petitioner was allotted the work of construction of the Administrative Building of the College and estimated cost of construction work was 40,82,833/- and the period of construction work was four months from 27.09.2010. Further, the counter affidavit reveals that the petitioner did not complete the work within the stipulated time, and a meeting of the Development Committee was held on 22.05.2012 and petitioner was directed to complete the work within two months vide letter dated 22.05.2012 (Annexure-R/1).

8. It is specifically contended in the counter affidavit that during the period of construction, respondent no. 3 was not informed about the extra works beyond the estimates and never took permission for making any additional works. All of a sudden,



a bill was made for payment of the excess work. Further, it is contended that the petitioner has wrongly mentioned in the writ petition that he has also done electrification/sanitation/water supply works etc., but those works were done by different contractors. The College requested M/s Om Enterprises, Kankapuri East of Jain College, Ara to do the work of submersible installation on 22.07.2013 vide Annexure-R/2 and the said work was done by M/s Om Enterprises for which M/s Om Enterprises submitted a bill on 06.08.2013 which was duly approved by the University Engineers on 23.09.2013. Copy of bill dated 06.08.2013 and letter dated 23.09.2013 are hereby annexed with the petition as Annexures R/3 and R/4. Similarly, after due legal process the other works of electrification, water supply and sanitation works were allotted to Kumar Enterprises vide Annexure R/5.

9. The counter affidavit further discloses that the petitioner had put pressure on respondent no. 4 the Executive Engineer and in turn, the bills were prepared contending that all the works were done by the petitioner, therefore, prayed to dismiss the writ petition.

10. Heard the rival submissions of the counsel for the petitioner as well as the counsel for the respondents.



11. On perusal of record, it is evident that the petitioner is alleges to have done the works which were not within the purview of the agreement between the petitioner and the respondent no. 3. If at all, the petitioner had grievance, it is for him to approach before the Civil Court for recovery of dues from respondent no. 3. The writ petition itself is not maintainable for recovery of amounts from the Principal as it does not fall under the agreement. Admittedly, respondent no. 3 has paid Rs. 39,17,249/- (Rs. Thirty Nine Lakh Seventeen Thousand Two Hundred Forty Nine only) out of the contract amount of Rs. 40,82,833/-. Therefore, this Court is of the considerable view that petitioner is at liberty to approach the appropriate Forum for recovery of amount against respondent no. 3.

12. Accordingly, the writ petition is disposed of.

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2024
Transmission Date	

