

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.23419 of 2013**

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Md. Usman, Son of Late Md. Habib Proprietor-cum-Secretary, Varis Furniture  
Udhyog, Resident of Village - Jhingaha, P.O. - Jhingaha, P.S. - Motipur,  
District – Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Public Health Engineering Department,  
Government Of Bihar, Patna.
3. The Chief Engineer-cum-Member Secretary, State Level Executive  
Committee, Bihar Rajya Jal Avam Swachhata Mission, Patna.
4. Executive Engineer-cum-Member Secretary, Zila Jal Avam Swachhata  
Samiti, East Champaran, Motihari.
5. Member Secretary, Prkalap-cum-Executive Engineer, Public Health  
Division, East Champaran, Motihari.
6. S.D.O.-cum-Assistant Engineer, Public Health Sub-Division, Chakiya, East  
Champaran, Motihari.
7. Junior Engineer, Public Health Branch, Chakiya, East Champaran, Motihari.
8. Mukhiya, Gram Panchayat Raj, Madhurapur, Block-Chakiya, East  
Champaran, Motihari.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Rajeev Ranjan, Advocate. with<br>Ms. Bela Singh, Advocate. |
| For the Respondent/s | : | Mr. Rishiraj Sinha, Advocate.                                  |
| For the State        | : | Mr. Sarvesh Kumar, G.P. 24.                                    |

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

11      09-02-2024                      Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the  
following reliefs:-

*“(i) For issuance of a writ of  
mandamus or any other appropriate writ,  
order or directions to pay the entire  
pending bill submitted by the petitioner*



*before Respondent No. 5, on 25.11.2010 with regard to construction of 574 toilets (Rs. 2200 model), made under the government scheme, Zila Jal Avam Swachhata Samiti, East Champaran, Motihari.*

*(ii) for issuance of a writ of mandamus or any other appropriate writ, order or directions directing the respondents to pay 18% per annum interest on aforesaid dues amount.”*

3. Learned counsel appearing on behalf of the petitioner has stated that pursuant to the work order given by the authorities, the petitioner has constructed 574 toilets and submitted the necessary bills to the authority concerned. That the toilets were constructed under various schemes of the Government for the persons falling under BPL, APL, Maha Dalit Family and other categories of beneficiaries. That after construction of the said toilets, the petitioner has submitted his bills and the Sub-Divisional Officer, Public Health Sub-Division, Chakiya, verified and certified the constructions of the toilets. However, the authorities till date have not paid the amounts due to the petitioner. Learned counsel has stated that in the counter affidavit filed by the respondents, the authorities have taken stands that at the time of inspection, some of the toilets were not found in use, some of them were found broken and only 60 toilets out of 574 constructed by the petitioner were



found to be eligible for payment of the amounts. Learned counsel has stated that the construction of the said toilets were completed in the year 2010 and immediately after the construction, the same was verified by the S.D.O.-cum-Assistant Engineer, Public Health Sub-Division, Chakiya and a letter dated 07.12.2011 was addressed by the Respondent No. 5 whereas the inspection has taken place in the year 2014 i.e. after a lapse of more than three years. That the cost of each toilets to be constructed was fixed at Rs. 2200/- and therefore, the authorities cannot expect the quality of the said toilets to be of very high standard which will stand the vagaries of nature and to be in good condition even after a lapse of more than three years. Further it is stated that for the non-usage of the toilets by the beneficiaries, the petitioner cannot be found fault with. Therefore, prayed this Court to allow the present writ petition and direct the authorities to pay the amounts due to the petitioner.

4. Per contra, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that even though the petitioner has submitted the bills stating that he has constructed 574 toilets under the Government Scheme. On



verification of the said constructions, it was found that most of the toilets were not present and only 60 toilets were found to be in good condition and to that effect necessary steps have been taken to pay the amounts due for the construction of 60 toilets.

5. Even though the counter affidavit has been filed in the year 2015, learned counsel for the petitioner has stated that till date the authorities have not made payment even for the said 60 toilets, leave alone the 574 toilets. Learned counsel has drawn the attention of this Court to the Annexure-A of the counter affidavit which is a report of the Respondent No. 4 dated 23.09.2013 wherein it is stated that on verification, it was found that the most of the toilets constructed by the petitioner were not in use and some of them were in a broken condition and only 20% are fit to be used, the fact that the petitioner has constructed 574 toilets has not been disputed.

6. A perusal of the said letter reveals that there is no dispute with the construction of 574 toilets by the petitioner, the only reason for not paying the said amount to the petitioner is that some of the toilets were not found to be in use, some of them were found in a broken condition and only 20% were found to be fit and usable. It is pertinent to note that the said report is dated 23.09.2013 whereas the construction of the



toilets have taken place in the year, 2010. The authorities cannot expect the toilets to be in a good condition after a period of more than three and a half years. Further as rightly pointed out by the learned counsel for the petitioner, if the beneficiaries are not using the toilets, the petitioner cannot be blamed for the said non-usage. Once it is established that the petitioner has constructed the toilets as per the work order given, the authorities are bound to pay the amounts as per the terms of agreement, if the authorities had any doubt with regard to the toilets being constructed or wanted to check the specification of the toilets constructed, they ought to have made an inspection immediately after the receipt of the bills but not after a period of more than three and a half years. Further, it is also pertinent to note that the S.D.O.-cum-Assistant Engineer, Public Health Sub-Division, Chakiya, East Champaran, Motihari had already inspected the toilets, found that the toilets were constructed and the quality has also been maintained by the petitioner and necessary correction as suggested were also completed. In view of the same, the authorities cannot deny the payment of the bill amounts due to the petitioner.

7. Having regard to the above mentioned facts and circumstances, the present writ petition stands allowed and the



respondents are directed to make necessary payments to the petitioner for 574 toilets constructed as expeditiously as possible preferable within a period of eight weeks from the date of the receipt of the copy of this order. In case, the authorities do not pay the amounts within the time stipulated given by this Court, the petitioner would be entitled to simple interest of 6% P.A. from the date of submission of the bills to the date of making payments.

8. With the above directions, the present writ petition stands **allowed** to the extent indicated above.

**(A. Abhishek Reddy , J)**

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