

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15047 of 2021

=====

M/s Mother India Construction Pvt. Ltd. having its registered office at Aspura House, Road No.3, Sanjay Gandhi Nagar, Kankarbagh, Patna through its Director Chandra Sen Singh, aged about 58 years (Male), Son of Late Nathuni Singh, Resident of Road No.3, Sanjay Gandhi Nagar, P.S.- Hanuman Nagar, Distt- Patna.

... .. Petitioner/s

Versus

1. The Bihar Urban Infrastructure Development Corporation Ltd. through its Managing Director.
2. The Managing Director, Bihar Urban Infrastructure Development Corporation Ltd., Patna.
3. The Chief General Manager, Bihar Urban Infrastructure Development Corporation Ltd., Patna.
4. The Chief Engineer (South), Bihar Urban Infrastructure Development Corporation Ltd., Patna.
5. The Project Director, Bihar Urban Infrastructure Development Corporation Ltd., Patna.
6. The Executive Engineer, Patna, West, Bihar Urban Infrastructure Development Corporation Ltd., Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Akshansh Ankit, Advocate.
For the Respondent/s	:	Mr. Lalit Kishore, Senior Advocate with
		Mr. Rabindra Kumar, Advocate.
		Mr. Briyadarshi, Advocate.

=====

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

9 24-04-2024 Heard learned counsel for the parties.

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

“(i) For quashing the Letter No. 787 dated 16.11.2019 (Annexure P6) issued by the Respondent-Executive Engineer, BUIDCo, Patna West, Patna



whereby and whereunder payment on account of increased prices of material/wages and GST Claim amount (differential tax liability) was denied to the petitioner for works executed under Agreement No. BUIDCo/SIU-2/Yo-190/18-16 dated 27.03.2018 and (Phase II and III) as the same is unreasonable, arbitrary and cannot be sustained in the eyes of law.

(ii) For a direction upon the Respondents to make payment of GST Claim amount (differential tax liability) to the petitioner for works executed under Agreement No. BUIDCo/SIU-2/Yo-190/18-16 dated 27.03.2018 and (Phase II and III) amounting to around Rs. 1,67,72,183.05 (Rupees one crore Sixty-Seven lakhs Seventy-Two Thousands One Hundred Eighty Three and Five Paise) till date, in light of order dated 07.07.2019 in CWJC No. 1452 of 2019 by this Hon'ble Court, in a similar matter along with penal interest at the rate of 18% per annum."

3. Learned counsel appearing on behalf of the petitioner has assailed the order dated 16.11.2019 (Annexure P6) on the two grounds; one that the order is passed by the Executive Engineer of the respondent-organization who does not have the jurisdiction of pass the said order. That the representation of the petitioner was given to the Chief General Manager, BUIDCo, Patna and; secondly on the ground that without taking into consideration the Clause 35 of the NIT, the



authority has rejected the claim of the petitioner without assigning any reasons. Therefore, learned counsel has prayed this Court to set aside the impugned order and remand the matter back to the competent authority i.e. Respondent No. 3 herein to take a fresh look at the representation made by the petitioner and pass necessary orders in accordance with law.

4. Learned senior counsel appearing on behalf of the Respondents-BUIDCo. has stated that he has no objection if the matter is remanded back to the authority concerned for passing orders afresh in accordance with law.

5. Having regard to the above made submission, the impugned order dated 16.11.2019 is set aside and the matter is remanded back to the Chief General Manager, BUIDCo. i.e. Respondent No. 3 for considering the representation dated 27.06.2019 (Annexure P5) and pass necessary orders strictly in accordance with law.

6. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.



7. With the above directions, the present Writ Petition
stands **disposed of** to the extent indicated.

(A. Abhishek Reddy, J)

Shakir/-

U			
---	--	--	--

