

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10576 of 2023

Alflah Manufacturing Company Opposite Oriental Bank of Commerce,
Hanumangarh Town, Rajasthan 335513, represented through its proprietor,
namely Mohammad Tuffel, Gender Male aged about 42 years, son of Niyaj
Mohammad, resident of Ward No. 20, Kalalon Ka Mohalla, Post Office and
Police Station-Hanumangarh Town, District Hanumangarh, Rajasthan

... Petitioner

Versus

1. The State of Bihar represented through the Additional Chief Secretary,
Urban Development and Housing Department, Government of Bihar, Patna.
2. The Nagar Parishad, Siwan represented through the Chief Executive Officer,
Nagar Parishad, Siwan.
3. The City Manager, Nagar Parishad, Siwan.

... Respondents

Appearance :

For the Petitioner	:	Mr.Mrigank Mauli, Sr. Adv. with M/s Kumar Ravish & Siddhi Asthana, Advs.
For the State	:	Mr.Yogendra Prasad Sinha, AAG VII
For Nagar Parishad	:	Mr. Ravi Bhushan Verma, Adv.

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

8 09-04-2024 Heard the parties.

2. The present writ petition has been filed for the
following relief(s) :

*a. to direct the respondents, particularly, the Chief
Executive Officer of the Nagar Parishad, Siwan-
Respondent No. 2 to pay to this petitioner the
admitted dues for supplying/installing 6 (six) units of
prefabricated shelter (Yatri shed) [bus shelters] way
back in the year 2020 (in the month of August, 2020)
under the work order dated 25.03.2020 (Letter No.
560) (Annexure-P/1) which was issued after the
petitioner successfully participated in the online bid*



through Government e-marketplace portal of the Government of India commonly known as GEM portal.

b. To direct the respondents to pay the remaining principal amount of 46, 58,800/- (total bill for supply of 6 (six) units. was 96, 58,800/- in which ₹ 50, 00, 000/- was paid in the year 2022 in the months of November and December 2022).

c. To direct the respondents to pay the statutory interest under the provisions of the MSMED Act.

d. To direct the respondents to pay to this petitioner the cost of this litigation.

e. Any other relief or relief which the petitioner may be found to be entitled to in the facts and circumstances of the present case.

3. Learned counsel for the petitioner states that pursuant to the order issued by the authorities the petitioner has supplied six units of Prefabricated Shelter with PUF Panel as per specification issued by the authority concerned. Learned counsel has stated that the authorities themselves have posted the requirement on the GEM Portal to which the petitioner has bid an amount of Rs.16,09,800/- per unit total amounting to Rs.96,58,800/-. That the petitioner was given the work order on 25.03.2020, which was to be completed by 29th April, 2020. However, due lock-down imposed throughout the country on



20th March, 2020, due to COVID 19 Pandemic the petitioner could not execute the work within the stipulated time. The petitioner has completed the work to the satisfaction of the authorities subsequently. Learned counsel has stated that out of the total amount of Rs.96,58,800/-, the petitioner has been paid an amount Rs.50,00,000/- but the balance amount of Rs.46,58,800/- is yet to be paid, therefore, learned counsel for the petitioner submits that the present Writ Petition may be allowed and directions may be given to the authority concerned to pay the balance due to the petitioner.

4. Per contra the learned counsel appearing on behalf of the respondents has stated that the petitioner did not complete the work within the stipulated time. That there were allegation of financial mis-management against the Executive Officer who has given the contract to the petitioner. Further it is stated that on comparison of the sheds which were supplied and installed in the district of Jamui it was found that only an amount of Rs.6,50,000/- per unit was sanctioned by the District Magistrate vide Letter N o. 287, dated 04.06.2021, whereas the petitioner has quoted an amount of R.16,09,800/-. Further it is stated that the elected representatives have also raised objections with regard to the financial irregularities and the rate at which the



petitioner has supplied and installed the six Yatri Shelter at Nagar Parishad, Siwan, and therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

5. Admittedly, in the present case the authorities in their wisdom have floated the tender for supply of six units of Bus Shelters on the GEM Portal which is maintained by the Government of India. The petitioner participated and has quoted a price of Rs.16,09,800/-, the authorities finding that the amount quoted by the petitioner is the lowest one have issued the work order vide Letter No. 560, dated 25th March, 2020. The petitioner completed the work and submitted the bills for a total amount of Rs.96,58,800/- but the authorities have made part payment and not paying the balance amount of Rs.46,58,800/- on the ground that a comparison with similar types of shelters supplied at Jamui were at a lower rate, whereas the amount quoted by the petitioner was found to be exorbitant. And that the elected representatives have objected the rate at which the supply was made by the petitioner. Except stating the above two grounds nothing has been stated by the authorities concerned in their counter affidavit for denying the payment due to the petitioner. Once the petitioner has quoted his bid and respondents have accepted the same and issued the work order,



the authorities cannot turn around and state that the rates quoted by the petitioner are exorbitant or are on the higher side, more so, when the work has already been completed by the petitioner. Even though in the counter affidavit it is stated that the petitioner has not completed the work within the stipulated time, it is pertinent to note that entire country was under lock-down due to the COVID-19 Pandemic, the entire country was at stand still and the work could not had being completed within the stipulated time. The petitioner cannot be blamed for the delay in execution of the works in time.

6. Having regard to the facts that the petitioner has been issued a work order after the authorities have duly accepted the bid of Rs.16,09,800/- per unit quoted they cannot turn around and deny the payment to the petitioner.

7. The authorities are directed to pay the balance amount of Rs.46,58,800/- to the petitioner as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order. Though the counsel for the petitioner has made a request for grant of interest, this Court is not inclined to grant the same. However, it is made clear that in case the petitioner do not pay the balance amount the petitioner shall be entitled to simple interest at the rate of 6% from the



date of submitting of the bills till the date of realization.

8. With the above directions, the Writ Petition stands
allowed to the extent indicated.

(A. Abhishek Reddy , J)

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