

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9810 of 2023

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Shailesh Kumar Singh Son of Raghav Singh, Resident of Village Dumari
Bujurg, P.S.- Nayagaon, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Building Construction Department, Govt. of Bihar (Patna).
2. The Principal Secretary, Building Construction Department, Govt. of Bihar (Patna).
3. The Chief Engineer, Building Construction Department, Govt. of Bihar (Patna).
4. The Superintending Engineer, Construction Circle, Building Construction Department, Govt. of Bihar (Patna).
5. The Executive Engineer, Construction Division No. 2, Building Construction Department, Govt. of Bihar, Patna.
6. The Bihar School Examination Board Through its Secretary, having office at Buddh Marg, Patna-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Kishore Singh, Adv.
For Respondent No. 6	:	Mr. Satyabir Bharti, Adv.
	:	Mr. Abhishek Anand, Adv.
	:	Ms. Kanupriya, Adv.
For the Respondent/s	:	Mr. S. D. Yadav (Aag 9)

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

Date : 23-09-2024

Heard the learned counsel for the parties.

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

*“That the Petitioner prays for writ
in the nature of mandamus commanding the
Respondent authorities of the Building
Construction Department and the Bihar School
Examination Board to ensure the payment of
admitted dues of Rs. 18,42,000.00 along with
further direction to the Respondent Bihar
School Examination Board to respond to the
request for issuing allotment for the purpose of*



payment of the admitted dues to the Petitioner as the work had already been completed and there is no dispute or issues connected with the entitlement of the Petitioner Contractor towards the said admitted amount. The Petitioner prays for direction to the Authorities of the School Examination Board (Board in short) and/or the Respondents of the Building Construction Department to pay the amount along with Compound Interest @ 9% per annum to the Petitioner for wrongful and illegal retention of the entitled admitted amount.”

3. It is the case of the petitioner that pursuant to the work order/ agreement dated 27.12.2023 & 09.01.2015 between the parties, the petitioner has made the construction and submitted his bills. However, the official respondents have paid part of the bill amount and the balance amount payable to the petitioner is approximately Rs. 18,42,000/-. That the bills payable to the petitioner have been approved by the concerned department and the Executive Engineer of Building Construction Department has written to the Respondent Board to deposit the necessary amounts so as to enable them to clear the bills of the petitioner.

4. Learned counsel for the petitioner has stated that the authorities are not paying the amount due to the petitioner even though the work was completed three years back. Learned counsel has further stated that though the petitioner has constructed the strong room and the other works entrusted as per the specifications issued by the authorities due to the difference of opinion between



the respondent Nos. 1 to 5 and the respondent No. 6, the bills due to the petitioner are being delayed. Learned counsel has therefore, prayed this Hon'ble Court to direct the respondents to clear the pending amounts due to the petitioner at the earliest.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-State while admitting that the work order/agreement was entered between the petitioner and the Government for the construction of the strong room in the campus of Bihar School Examination Board and other works has however, stated that the balance amount due to the petitioner is not being deposited by the Bihar School Examination Board on the ground that the construction of the lift area was not done as per the specifications given. Learned counsel has stated that they have no objection for paying the amounts due to the petitioner if the School Examination Board deposits the said amount.

6. *Per contra*, the learned counsel appearing on behalf of the respondent Bihar School Examination Board has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has not constructed the lift room as per the specifications given by the Department. Learned counsel has stated that the petitioner was supposed to build the lift area which could had enabled the authorities to put a lift having a capacity of



eight persons. However, due to the mistake committed by the petitioner, the size of the lift room was very much reduced, as a result of which, the lift with a capacity of only 5 persons could be accommodated. That due to the mistake committed by the petitioner, the School Department is facing great difficulty and loss. Learned counsel has further stated that the question as to whether the petitioner has built the lift room as per the specifications given by the authorities or not are all disputed questions of fact which cannot be gone in a writ petition and, therefore, the petitioner should be relegated to invoke the arbitration clause or approach the Tribunal under the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

7. Admittedly, in the present case, the petitioner pursuant to the work order/ agreement entered between the parties has constructed the strong room and other works and submitted the bills, a major portion of the bills have already been paid to the petitioner and balance of only Rs. 18,42,000/- remains to be paid. Though the counsel for the respondent-State has stated that they have no objection for paying the balance amount due to the petitioner provided the School Examination Board deposits the



said amount. However, the counsel for the School Examination Board has vehemently opposed the said contention solely on the ground that the lift area which has been constructed by the petitioner is not as per the specifications given and due to the mistake committed by the petitioner, having lesser capacity the lift, had to be installed and the Board is suffering due to the lapses committed by the petitioner. The only question that arises for consideration in the present CWJC is as to whether the amounts due to the petitioner for the work which have already been completed can be withheld by the respondent No. 06 or not. This Court after going through the record is of the opinion that the stand taken by the School Examination Board i.e., respondent No. 06 is without any legal basis. There is nothing on record as to how the respondents have quantified the amounts to be withheld by them. Further, it is to be noted that the authorities before they took a decision have not given any show cause notice to the petitioner seeking his explanation. Once the petitioner has completed the work assigned to him, the authorities are obligated to clear the bills. In case they have any complaint or grievance against the petitioner for any lapses committed by him, they have their legal remedies available under the agreement, but the payment of the money due to the petitioner cannot be stopped or denied, more



particularly, on the ground that the lift area was not constructed as per the specifications given by the School Department.

8. Having regard to the above mentioned facts and circumstances, the respondent No. 06 is directed to pay the balance amount of Rs. 18,42,000/- to the petitioner as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. In case the official respondents want to take any action against the petitioner, they are free to do so but the payment of the amounts due to the petitioner cannot be delayed or stopped on that ground alone.

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

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2024.
Transmission Date	NA

