

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4805 of 2016

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Anita Devi W/o Ajay Kumar Singh Resident of Village - Duwari, P.S. -
Karakat, District - Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate Cum-District Election Officer, Rohtas at Sasaram.
3. The District Transport Officer Cum-Nodal Officer, Rohtas at Sasaram.
4. The Incharge Officer District Transport Officer, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Atul Kumar Pandey
For the Respondent/s : Mr.J.P. Karn, AAG-4

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

Date : 10-05-2024

This Writ application is filed for the following reliefs:-

(i) For issuance of a writ in the nature of Mandamus directing the respondents to make the payment of admitted dues of Rs. 61271.00 to the petitioner against the acquisition of her Bus bearing registration no. BR01PA9595 for election duty during Bihar Legislative Assembly Election, 2015.

(ii) For issuance of writ in the nature of Mandamus directing the respondents to make the payment of interest at the market rate over the admitted dues and also for the payment of cost of litigation and mental agony suffered by the petitioner due to non-payment of admitted dues for a long period.



2. The brief facts culled out of the petition are that the petitioner is a transporter, and her Bus bearing Registration no. BR01PA9595 was acquired by the respondent no. 5, for election duty during Bihar Legislative Assembly Election, 2015 and the said Bus is a 53 seater (including the driver). The rate of Compensation for the use of such bus was fixed @ Rs. 2200/- per day. During election duty and the rate of diesel was fixed at 3 Km per litre for the distance covered by the Bus. The services of the Bus were utilized for the election duty from 17.09.2015 (PM) to 27.10.2015 (PM) i.e in total 40 ½ days. Further, the Bus was sent to Motihari District, East Champaran for the election from 28.10.2015 to 02.11.2015. Aggrieved by non-payment of the amount, the petitioner approached the concerned authorities showing the bills of the distance travelled, payment received in advance along with the entries that were made in the Log book which was duly certified by the concerned authorities. The respondent on the basis of the entries made in the log book made final Calculation, but final payment was not made. As per the records, the Bus travelled 3973 Km, for the said period of 40 ½ (vide Annexures 3 and 4). The petitioner claimed Rs 61,271.00 after deducting the advance amount. But the payments were not



made by the respondents, therefore, petitioner was constrained to file Writ petition.

3. On the other hand, a detailed counter affidavit was filed by respondent No. 2 and 3.

4. It is admitted in the counter affidavit as to the use of the Bus for the purpose of election duty for Bihar Legislative Assembly Election, 2015. Further, counter affidavit disclose that the respondent no. 3/District Transport Officer, Rohtas, paid Rs. 55,520/- (Rs. Fifty Five Thousand Five Hundred Twenty) to the petitioner through RTGS to the account of the petitioner on 22.09.2023 (vide Annexures A and B, annexed with the counter affidavit). It is also contended in the counter affidavit that the details of the Outstanding amount of the vehicle of the petitioner has been prepared by the office of respondent no. 3 and basing on that an amount of Rs. 55,520/- was paid (vide Annexure-C annexed with the counter affidavit). All other averments of the writ petition were denied. The Counter further disclose that the rate has been fixed by the Election authorities and as per the rules, payment was made to the petitioner and therefore, prayed to dismiss the writ petition.

5. Heard the rival contentions of both the parties.
Perused the Record.



6. It is evident from the record that the petitioner claimed Rs. 61,271/- towards the utilization of the Bus for the period of 40 ½ days @ Rs. 2200/- per day which comes to Rs. 89,100/- (Rs. Eighty Nine Thousand One Hundred only). The amount received by the petitioner is Rs. 55,520/- (Rs. 89,100.00- Rs. 33580.00). The petitioner has claimed Rs. 5,751.94 towards diesel expenses that @ Rs. 50.31 per litre. The total distance travelled by the Bus is 114.33 Km. Therefore, the total amount would come to Rs. 61,271.94 (Rs. 55520.00 + Rs. 5,751.94). Annexure -C also disclose that the petitioner's Bus was utilized for 40 ½ days and advance payment was made for an amount of Rs. 33,580/- to the petitioner. Further, the calculation also disclose that the Bus of the petitioner was utilized for 40 ½ days and total amount comes to (40 ½ X 2200/-) Rs. 89,100/- and the amount which was paid in advance was deducted from the final amount that is Rs. 89,100.00 – Rs. 33,580.00 which comes to Rs. 55,520.00. As per the respondents the amount due was Rs. 55,520.00 and the same was paid to the petitioner during pendency of the writ application. But the amount which was incurred by the petitioner towards diesel was not paid. The counter affidavit is silent as to the payment of Rs. 5751.94 incurred towards diesel expense. Further, the prayer of petitioner in the writ application is



for payment of interest at the market rate over the admitted dues.
Therefore, the petitioner is entitled to an amount of Rs. 5,751.94 towards diesel charges which is not paid till date. The petitioner is also entitled for an interest of 6% on the diesel charges till the date of realization.

7. With abovesaid observation, the writ application is hereby allowed.

(G. Anupama Chakravarthy, J)

vinita/-

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

