

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14806 of 2016

1. Mukul Kumar son of Bachu Rai Shop Keeper of Shop No. 6, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
2. Ramakant Sharma son of Late Siyaram Sharma Shop Keeper of Shop No. 14, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
3. Arvind Kumar son of Sri Parasnath Prasad Singh Shop Keeper of Shop No. 4, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
4. Pankaj Kumar son of Chandra Bhushan Singh Shop Keeper of Shop No. 15, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
5. Kumar Vijay son of Nawal Kishore Prasad Shop Keeper of Shop No. 1, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
6. Sudhir Prasad Singh son of Late Sant Prasad Singh Shop Keeper of Shop No. 7, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
7. Manoj Kumar Gupta son of Arun Kumar Gupta Shop Keeper of Shop No. 16, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
8. Sanatan Kumar son of Ramashray Singh Shop Keeper of Shop No. 2, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
9. Shambhu Sharma son of Sitaram Sharma Shop Keeper of Shop No. 08, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.
10. Ranjan Kumar son of Late Bisheshwari Singh Shop Keeper of Shop No. 05, Near Thana Chowk, Ward No. 8, Police Station and District - Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Lakhisarai.
2. The Executive Officer, Nagar Parishad, Lakhisarai.
3. The Executive Officer, District Board, Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No.2, Advocate. Mr. Gajendra Kumar Singh, Advocate.
For the State	:	Mr. Yogendra Prasad Sinha, AAG-7. Mr. Rajeev Kumar Sinha, AC to AAG-7.
For respondent no.2	:	Mr. Avinash Kumar, Advocate. Mr. Prabhat Kumar, Advocate.
For respondent no.3	:	Mr. Dinkar Raj Bhandari, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 22-01-2024

Heard Mr. Manish Kumar No.2, learned counsel



along with Mr. Gajendra Kumar Singh, learned counsel appearing on behalf of the petitioners; Mr. Yogendra Prasad Sinha, learned AAG-7 along with Mr. Rajeev Kumar Sinha, learned AC to AAG-7 for the State; Mr. Avinash Kumar, learned counsel for the Nagar Parishad – respondent no.2 and Mr. Dinkar Raj Bhandari, learned counsel for the respondent no.3 – Zila Parishad.

2. Mr. Manish Kumar No.2, learned counsel appearing on behalf of the petitioners submits that he has received instruction that the petitioners have agreed to abide by the terms and conditions of the agreement and the notices which were issued to the petitioners in the year 2016 without giving any opportunity to them contained in Annexure-3 (series).

3. Learned counsel appearing on behalf of the respondent no.2 – the Executive Officer, Nagar Parishad submits that the petitioners are bounded by the terms and conditions of the agreement which they have accepted with their open eye and now they cannot turn around and deny the terms and conditions. In this regard, he has relied on the judgments of the Apex Court in the cases of **M.P. Power Management Company Limited, Jabalpur Vs. Sky Power Southeast Solar India (Pvt.) Limited & Ors.** reported in (2023) 2 SCC 703; **Joshi Technologies International Inc. v. Union of India**



reported in **(2015) 7 SCC 728; Divisional Forest Officer v. Bishwanath Tea Co. Ltd.** reported in **(1981) 3 SCC 238; Bharat Coking Coal Ltd. v. AMR Dev Prabha** reported in **(2020) 16 SCC 759; Jagdish Mandal v. State of Orissa** reported in **(2007) 14 SCC 517**. He submits that the writ petition is not maintainable if there is any violation of terms and conditions of the contract. The Court can exercise jurisdiction in case there is statutory violation and order is without jurisdiction or the decision making process is not in accordance with law.

4. Having heard the rival submissions made on behalf of the parties as well as the notices contained in Annexure-3 series and the interim order passed by this Court on 19.01.2017, the petitioner has paid on the low rate. Considering the fact that the petitioner is bounded by the statutory contract which he has entered into and now it has been informed that the petitioners are ready to make payment at the enhanced rate as contained in Annexure-3 series, but at the same time the petitioners were not given opportunity to place their case and the manner in which the authorities are required to abide by the principles of natural justice before taking any penal action against a common citizen.

5. Considering the information given by the learned counsel appearing on behalf of the petitioners that the



petitioners are ready to make payment at the enhanced rate subject to the condition that they be provided the opportunity of being heard. The petitioners, if so advised, may file their individual representation before the Executive Officer, Nagar Parishad, Lakhisarai. The Executive Officer, Nagar Parishad, Lakhisarai is directed to consider the case of the petitioners in accordance with law after giving due opportunity of hearing to the petitioners. It is made clear that the interim orders passed by this Court are discharged.

6. The Executive Officer, Nagar Parishad is directed to fix any date for making payment of back dues which the petitioners are ready to pay considering the practical difficulties which the petitioners may disclose before him.

7. The writ application, accordingly, stands disposed of.

8. There shall, however, be no order as to costs.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	25.01.2024
Transmission Date	N.A.

