

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.717 of 2025

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M/s. Jai Mangla Construction At and P.O. Bihat, District-Begusarai, Bihar-851135 through its Authorized Partner Ramanuj Kumar Singh, male, aged about 59 years, son of Late Kailash Singh, resident of Flat No. C/101, Dream Apartment, Plot No. 14, Sector 22, Dwarka, South West Delhi, Delhi-110077, at present residing at Pillar No. 58, Machchli Gali, Raja Bazar, Patna-800014.
... Petitioner

Versus

1. The Union of India Ministry of Indian Railways.
 2. The Divisional Railway Manager, East Central Railway, Danapur, Bihar.
 3. Senior Divisional Electrical Engineer, TRD East Central Railway, Danapur.
- ... Respondents

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Appearance :

For the Petitioner	:	Mr.Umesh Prasad Singh, Sr. Adv. with Mr. Vaibhava Veer Shanker, Adv.
For the Respondents	:	Mr.Anand K. Ojha, CGC

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

7 01-05-2025 Heard Sri Umesh Prasad Singh, Senior Counsel,

 appearing on behalf of the petitioner and Sri Anand Kumar Ojha

 learned Senior Central Government Counsel appearing on

 behalf of the Respondents.

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

“I. To issue a Rule NISI in the nature of writ of certiorari to quash and cancel the notice/letter dated 11.11.2024 and the notice/letter dated 05.12.2024;

II. To issue a Rule NISI in the nature of writ of certiorari calling upon the respondents to show cause as to why not the Letter No. TRD/DNR/OT/25/24-25 dated 18.12.2024 be cancelled and on return of the



rule if no sufficient cause is shown by the respondents the Letter No. TRD/DNR/OT/25/24-25 dated 18.12.2024 be quashed and cancelled and rule may be made absolute with cost to the petitioner;

III. To issue a writ in the nature of mandamus to restore the Letter of Acceptance (LOA) dated 28.08.2024 and the petitioner be allowed to execute the work on the same terms and conditions;

IV. To issue writ/writs, order/orders, direction/directions to the respondent to return the security amount as well as performance guarantee with interest in case no work is allowed to be executed on the same terms and conditions;

V. To issue other appropriate writ, writs, order and orders as this Hon'ble Court may deem fit and proper and be further pleased to allow the writ application with cost.”

3. It is a case of the petitioner that the Letter of Acceptance (LOA) in favour of the petitioner on 28.08.2024, was terminated abruptly without issuing any show cause notice by the respondents on 18.12.2024 (Annexure P/10). That there is no provision for rescinding the contract under the Letter of Acceptance and advertence to Clause 62 of the Standard General Condition of Contract for rescinding the contract is



totally misplaced and is an arbitrary exercise of power not vested with the authority. Further it is stated that there is no separate contract entered by the parties other than the Letter of Acceptance, therefore even if there is any breach of the condition of the Letter of Acceptance the action needs to be taken under the terms and condition of the Letter of Acceptance only. Though the petitioner has submitted explanations to the show cause notices issued by the respondents there is no advertence with regard to the same in the impugned order. That the authorities have not given any opportunity to the petitioner to represent his case and the order impugned has been passed behind the back of the petitioner. That the order impugned is not in accordance with the Letter of Acceptance entered between the parties and, therefore, not only violative of principles of law but also against the principles of natural justice and equity. Learned counsel has stated that the Letter of Acceptance was issued on 28.08.2024 and the period a 24 months is envisaged for completion of the work. Learned counsel has therefore prayed this Hon'ble Court to allow the present Writ Petition and set aside the impugned order. Learned Senior Counsel Sri Umesh Prasad Singh has relied on the following judgments in support of his case :

(1) J.G. Engineering Pvt. Ltd. Vrs. Union of India &

Anr. reported in (2011) 5 SCC 758



(2) Indian Oil Corporation Ltd., Vrs. Niloufer Siddiqui & Ors., reported in (2015) 16 SCC 125

(3) M/S Gangotri Enterprises Ltd., Vrs. Union of India & Ors., reported in 2016 (11) SCC 720

(4) National Highways and Infrastructure Development Corporation Ltd. Vrs. BSCPL Infrastructure Ltd., reported in (2018) 10 SCC 525

4. Per contra, the learned Senior Counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition. Learned counsel has stated that though the authorities have entered into Letter of Acceptance with the petitioner on 28.08.2024 the petitioner had not commenced the work as envisaged under the contract. That the petitioner was given ample opportunities to rectify mistakes and commence the work however the petitioner failed to do so therefore the authorities left with no other alternative had to rescind the contract. Learned counsel has drawn the attention of the Court to the various clauses in the Standard General Condition of Contract and the various notices issued to the petitioner in support of his case. Learned counsel has, therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

5. Admittedly, as seen from the record in the present



Writ Petition the impugned order of cancellation was passed on 18.12.2024 (Annexure P/10). A perusal of the said order reveals that the petitioner was given show cause notice on 05.12.2024 (Annexure P/7) to show cause as to why action should not be taken against him for not commencing the work. A reading of the said show cause dated 05.12.2024 reads as under :

EAST CENTRAL RAILWAY

No. TRD/DNR/OT/25/24-25 Danapur, Dt. 05.12.2024

To

*Jai Mangla construction.
Vill+P.O.-Bihat. Refinery Road,
Dist-Begusarai (Bihar)*

*Sub: Contractor LOA no.-TRD/DNR/OT/25/24
25/00914180111345, dated 28.08.2024 for the work
Outsourcing of PSI maintenance activities for electrified
sections over DNR division for 2 years*

Dear sir,

Seven days' notice under Clause 62 of the Standard General Conditions of Contract was given to you under this office letter of even no, dated 11.11.24; but you have taken no action to commence the work/show adequate progress of the work.

You are hereby given 48 hours' notice in terms of Clause 62 of the Standard General Conditions of Contract to commence works / to make good the progress of works, failing which and on expiry of this period your above contract will be rescinded and the



work under this contract will be carried out independently without your participation and your Security Deposit shall be forfeited and Performance Guarantee shall also be encashed and any other consequences which may please be noted.

Kindly acknowledge' receipt.

Your faithfully,

*Sr. Divisional Electrical Engineer/TRD
AST CENTRAL RAILWAY/DANAPUR
For & behalf of the president of India*

The petitioner has given reply to the same on 0.12.2024, the same reads as follows :

“Sir as per your guidance and parameters enlisted we have already deployed manpower for all the depots i.e. MKA, BXR, & PNBE PSI DEPOT whose lists have already been mailed to you.

Also sir as directed by you as well as by depot in charge we have directed all the employed staffs to get a character certificate attested by resident Police station which is taking time and time for which has been sought by us vide our office letter no. JMC/PV/24-25/01 DT.22-11-2024. The character certificate submitted by employed staffs is under verification. Also, sir as physical presence is required for police verification we have asked the remaining employees to submit it at earliest.



Also sir for your kind information and attention we are once again attaching the list of manpower employed for different depots.

Also sir in good faith and holding you within our utmost esteem we would like to confirm to you that we are trying our level best to upkeep the progress of work and are also trying to streamline the employment of laborers on the basis of feedback collected from depot in charge.

Also sir with your kind support and motivation we will try our level best to complete the work.

Further in good faith we would like to request you to withdraw the 48 Hrs notice and permit us with some time to replace the staffs for which feedbacks have been collected.

Assuring our best services at all times.”

6. Though the petitioner thereafter has given a suitable explanation on 09.12.2024 itself but there is no whisper or advertence in the impugned order about the said explanation. Further it is to be noted that the authorities have relied on Clause 62 of the Standard General Conditions of the Contract to rescind the contract entered between the parties. It is pertinent to note that the parties till date have not signed the Standard



General Conditions of the Contract or any other document to bind them under the Standard General Conditions of the Contract. The only document available on record and admitted by the respondents is the Letter of Acceptance dated 28.08.2024 wherein at Clause 3 of the said acceptance letter it is specifically stated as under :

“3. Until the formal agreement is executed this acceptance of tender shall constitute a binding contract between you and the Railway.”

7. Admittedly in this case after the Letter of Acceptance was issued in favour of the petitioner till date no other agreement or document has been entered by the parties, in the absence of any agreement between the parties binding both of them under the term of Standard General Conditions of the Contract, reliance placed by the authorities on Clause 62 of the Standard General Conditions of the Contract is misconceived without jurisdiction, illegal, bad and contrary to the provisions of law. On this ground alone the impugned order of cancellation dated 28.08.024 is liable to be set aside and the same is accordingly set aside.

8. In view of the above mentioned reasons the impugned order dated 18.12.2024 is set aside, the CWJC is accordingly **allowed** however without costs.



9. In case the authorities are of the opinion that any action needs to be taken against the petitioner for violation of the conditions of the Letter of Acceptance they are free to do so strictly in accordance with law. However, before taking any action the authority shall duly take into consideration the fact that the contract is still at a nascent stage and there is ample time for the petitioner to complete the work as per the term of the Letter of Acceptance and the petitioner has taken necessary steps for engaging the workers necessary for completing the work.

(A. Abhishek Reddy , J)

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