

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1391 of 2024

Aryan Traders through its Proprietor Sima Kumari (Female), aged about 37 years, Wife of Sanjeet Kumar, Resident of Village-Gorigama, P.O. and P.S.-Mahua, District-Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Vaishali, Hajipur.
3. The Deputy Development Commissioner, Vaishali, Hajipur.
4. The Block Development Officer, Mahua, Vaishali.
5. The Block Programme Officer, Mahua, Vaishali.
6. Satish Prasad, MGNREGA P.T.A Mahua Block, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate Ms. Sakshi Bhatnagar, Advocate Mr. Anuj Kumar, Advocate
For the State	:	Mr. Anant Pd. Singh, S.C.-15 Ms. Deepika Sharma, A.C. to S.C.-15

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

14 01-11-2025 Heard learned counsel for the parties concerned.

2. The present writ application has been filed for direction to the respondent authorities to make payments of admitted dues of the petitioner to the tune of Rs. 62,12,748/- (Rupees sixty two lakhs twelve thousand seven hundred forty eight) with interest towards the supply of materials for MGNREGA works.

3. According to the petitioner, petitioner is the proprietor of the Aryan Traders. The firm was selected for



supply of the materials to the Gram Panchayat Raj Vishunpur Hirarampur alias Pahadpur, Block-Mahua, Vaishali for the MGNREGA works and other government works.

4. Learned senior counsel for the petitioner submits that petitioner was awarded the work of supply of construction material for MGNREGA for the year 2022-23. The petitioner made the supply of the stone, aggregate etc. worth about Rs. 62,12,748/-(Rupees sixty two lakhs twelve thousand seven hundred forty eight). The name of the petitioner firm is reflected in the portal of MGNREGA annexed at Annexure-P/2. He further submits that as per the payment process, when the supplier delivers the materials for works under the MGNREGA scheme, the Junior Engineer and Panchayat Technical Assistant make entries in the Measurement Book for initiation of the payment process. Then, this report goes to the office of the Program Officer and material list is generated online. Once it is processed, the final payment is made. The sum of Rs. 10.5 lakhs has been paid to the petitioner but balance amount has not been paid. The online bill has been deleted from the portal which smells foul on part of the respondent authorities. There was no bar at the time of allotment of tenders to family members of the



Mukhiya from becoming suppliers of materials. A letter dated 14.07.2023 annexed at Annexure R/4 to the counter affidavit, does not apply on petitioner as it was issued after tender notification in favour of the petitioner. The aforesaid letter cannot be applied retrospectively unless the same is explicitly mentioned under the said notification. The petitioner is not concerned with the utility of the schemes and its role is limited to supply of materials.

5. Referring to the counter affidavit filed by the respondents in paragraph 7, 8, 9, 10 etc., learned senior counsel submits that the respondent has accepted that the petitioner Aryan Traders supplied the materials in the works to be done under MGNREGA scheme in the concerned *Panchayat* and a sum of Rs. 10,50,006 (Rupees ten lakhs fifty thousand and six) has been paid under the said scheme to the petitioner. It has further been stated in the counter that as the works under the MGNREGA scheme is incomplete, so, the process as to the payment is pending because utility of scheme is zero. The inspection report by four members district level committee constituted by the DDC, Vaishali has not been submitted.

6. On the other hand, Ms. Deepika Sharma, learned



AC to SC-15 argued that as per the report of the District Programme Officer, Vaishali no Bill of the concerned scheme is being displayed on the portal of MGNREGA. The petitioner is in collusion with her husband who is the Mukhiya of the Panchayat, is trying to misappropriate the government money without getting the works completed under the schemes. Inasmuch as Mukhiya is the Chairmarn of executing agency of Gram Panchayat. So, he is responsible for completion of 71 incomplete schemes to ensure utility. She further argued that the petitioner herself has annexed the minutes of the meeting held under the Chairmanship of District Development Commissioner, Vaishali on 27.04.2023 for the financial year 2023-24 regarding the selection of bidders for supply of materials which is annexed at Annexure-P/1. From perusal of Memo dated 25.05.2023 having the minutes of the meeting, it appears that out of 181 bidders only 158 bidders were selected for supply of materials and the bid of 23 bidders were rejected, the list of rejection of bidders is annexed which contains the name of the petitioner at Serial No. 15. She further submits that the tender was not finalized for the concerned period. The tender was not floated and awarded in favour of the petitioner for the year 2022-2023 for



supply of materials in implementation of the MGNREGA scheme inasmuch as the petitioner has not brought on record any documents in this regard.

7. In reply, learned Senior counsel for the petitioner submits that from the counter affidavit filed by the respondent authorities, it is evident that the supplies were made by the petitioner and the part payment of about 10 lakh and odd amount has been given to the petitioner. The reasons for non-payment of the balance amount is mentioned in the counter affidavit stating that the utility of the scheme is zero. The State is the custodian of the documents regarding tender and its award of bid in favour of the petitioner. As such, the respondent-State cannot take this plea after acceptance of the materials supplied by the petitioner that the tender has not been brought on record.

8. I have heard learned counsel for the parties concerned and have gone through the materials on record.

9. The petitioner is claiming certain amount for supply of material whereas the respondents are disputing it to some extent. It appears that the four members of district level committee was constituted by the DDC, Vaishali. The inspection report has not been submitted and is not on record.



Some amount out of the claim of the petitioner has been paid against the materials supplied by it. Thus, it appears to the the Court that there is a claim and counter claim of both the parties.

10. Considering the nature of prayer made in the writ application and the facts brought before this Court, it is interest of justice that the Distrcit Magistrate should consider detailed representation filed by the petitioner bringing on record all his claims regarding the materials of supply including the relevant documents in support of the same after considering the inspection report and/or any other report sought by the District Magistrate in order to decide the representation filed by the petitioner. In the result, this writ application is disposed with liberty to the petitioner to file a detailed representation before the District Magistrate, Darbhanga along with the relevant documents within a period of one month from today.

11. If such representation is filed, the District Magistrate is directed to consider the same after hearing all the parties including the concerned officials, by speaking and reasoned order within a period of five months from the date of filing of representation.



12. It is made clear that while disposing representation of the petitioner, the District Magistrate can make independent inquiry from the competent person in order to find out the real facts involved in this case.

13. In view of the aforesaid direction, the present writ application stands disposed of.

(Anil Kumar Sinha, J)

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