

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1852 of 2024

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Sunil Kumar Son of Sri Chandrika Prasad Resident of Village-Madhubani,
P.O. Patahi, P.S. Muzaffarpur Sadar, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer-3, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Works Circle, Darbhanga.
6. The Executive Engineer, Rural Works Department, Works Division Darbhanga-1.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Adv.
	:	Mr. Abhinav Shandilya, Adv.
For the Respondent/s	:	Mr. Government Advocate 5
	:	Mr. Akash Raj, AC to GA5

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

16 09-05-2025 Heard the learned counsel for the parties.

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

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the reasoned order dated 13.12.2023 issued under the signature of the Respondent no.6 and contained in his memo no.2864 dated 14.12.2023, whereby and where under he has been pleased to rescind the agreement of the petitioner bearing Agreement No.70SBD/2018-19 dated 05.03.2019 as also forfeit the security money of the



petitioner.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to restore the agreement of the petitioner and permit the petitioner to complete the remaining work on the ground that due to non-payment of amount by the Respondents against the work done by the petitioner as well as the land dispute and flood, the petitioner could not complete the work.

(III) For issuance of any other appropriate writ/writs order/ orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. It is the case of the petitioner that without putting the petitioner on any prior notice, the authorities have straightaway issued the order of rescinding the contract.

4. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has completed almost 70% of the work as per the terms and conditions of the contract and only 30% work remains to be completed. That the order of cancellation passed by the authority without issuing any prior show cause notice to the petitioner is bad, illegal and opposes the principles of natural justice and equity. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very



maintainability of the present writ petition and stated that duly following the procedure as envisaged, the authorities have passed the impugned order. Learned counsel has further stated that the petitioner was given prior notice and thereafter, only the impugned is passed. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the pleadings, more particularly, third supplementary counter-affidavit filed by the respondent No. 2, at Para 12 it is stated as under;

“That in the light of the above submission it is apparent that letter No. 2037 dated 08.09.2023 was sent to the petitioner's address but the same was not delivered to him.”

7. Having regard to the same, the passing of the order dated 13.12.2023 which is impugned in the present writ petition is without notice to the petitioner and the same is opposed to the principles of natural justice and equity. Having regard to the fact that till date no tender has been issued for the balance 30%, and the same is yet to be completed and also duly taking into account that the petitioner has already completed 70% of the work, the present writ petition is allowed and the impugned order 13.12.2023 is set aside. The authorities are directed to permit the petitioner to complete the work and on submission of



the bills, pay the necessary amounts as per the terms and conditions of the tender agreement.

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

(A. Abhishek Reddy, J)

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