

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10516 of 2017

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M/s Pramoda Nand Pd. and Co. Chitragupt chowk, Ward No. 05, Kashipur Chowk, Samastipur, Pin – 848101 through its Partner Pramoda Nand Prasad son of Late Dharmawtar Prasad R/o Mohalla - Kashipur, Police Station - Samastipur and District - Samastipur.

... .. Petitioner/s

Versus

1. The Union Of India through the General Manager, East Central Railway, Hajipur
2. The Divisional Railway Manager, East Central Railway, Samastipur.
3. The Divisional Railway Manager Engineering, East Central Railway, Samastipur.
4. The Senior Divisional Engineer Cord, East Central Railway, Samastipur.
5. The Senior Divisional Engineer, 1st East Central Railway, Samastipur.
6. The Assistant Divisional Engineer - II, Darbhanga, East Central Railway, Samastipur.
7. The Senior Section Engineer W, Madhubani, Divisional Office, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rana Sanjay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Awadhesh Kumar Pandey, Sr. C.G.C.
		Lokesh
		Abhishek Kumar Verma, Advocates
		Shail Kumar, CGC

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 15-09-2025

1. The petitioner has filed the instant application for the following relief:

“I. To issue an appropriate writ / writs, order / orders, direction / directions including a writ in the nature of CERTIORARI for quashing the order as contained in Letter No. W/98/ D-234/W-1 dated 22.11.2016 issued from



the office of Divisional Railway Manager (Engineering) Samastipur whereby and whereunder he has deducted a sum of Rs. 2,77,440/= from final bill no. FCC/V/398 dated 09.04.2014 for the work at Khajauli up- gradation of station and construction of PRS bearing CA No. DRM/TC/15 dated 10.08.2009 on account of granted time extension by the competent authority on contractor's A/C under clause 17 (3) of GCC from the period 01.01.2011 to 31.03.2011 and therefore directed for recovery.

II. To issue an appropriate order/s, direction/s including a writ preferably in the nature of MANDAMUS commanding upon the respondents to make the payment of aforesaid amount of Rs. 2,77,740/= which has been deducted wrongly and illegally irrespective of the fact that in view of the Letter No. W/98/D-234/W-1 Samastipur dated 11.03.2011 of DRM (Engg) Samastipur (herein after referred to as Respondent no. 3) by which he has accorded sanction to extend the date of completion of above CA from 01.06.2012 to 31.05.2013 on administrative ground under Clause 17



(A) (II) of GCC as recommended by ADEN/II/DBG and contractor request (herein after referred to as Respondent no. 6).

III. To any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.”

2. The brief facts culled out of the writ petition is that the petitioner entered into a Contract Agreement No. DRM/TC/15 dated 10.08.2009 with the Respondent Railways for the work of *Khajauli upgradation of station and construction of PRS (Passenger Reservation System)* for a contract value of Rs.46,23,990/-, which was 6% above the approximate tender value of Rs.43,62,170/-. The original date of completion of the contract was 24.10.2009, which was extended multiple times, and the final extended date of completion was 31.12.2013. It is claimed that the petitioner completed the work on 31.12.2013 for which a final bill of Rs.44,27,100/- was passed on 23.12.2016. However, an amount of Rs.2,77,440/- was restrained and was to be



recovered under Clause 17(B) of the General Conditions of Contract (hereinafter called as GCC) for the period from 01.01.2011 to 31.03.2011, treating the delay, during this period as attributable to the contractor.

3. It is the case of the petitioner that all time extensions, except the brief period of 01.01.2011 to 31.03.2011 were granted on administrative grounds under Clause 17(A) of the GCC. The petitioner contends that even the delay during the above period was due to non-availability of structural drawings for the roof, slab, and beams of the PRS building, which was the responsibility of the respondent Railway. It is submitted that several letters from site engineers, including communications dated 01.02.2011 and 13.06.2012, indicate that the required drawings were not provided in time. The petitioner also made representations requesting exemption from Liquidated Damages (hereinafter called as LD), which were not accepted. It is contended that ultimately, the Divisional Railway Manager



(Engineering), Samastipur, issued a Work Completion Certificate on 05.11.2016 certifying that the work was satisfactorily completed on 31.12.2013.

4. A supplementary affidavit was filed on behalf of the petitioner stating therein that due to a typographical error, the contract number was wrongly mentioned in the original petition as DRM/TC/115 dated 18.08.2009, whereas the correct agreement is DRM/TC/15 dated 10.08.2009. A copy of the correct agreement was also annexed along with the affidavit.

5. The petitioner reiterated that the drawings were provided on 17.03.2011 and the delay was entirely due to the respondent's failure, which should have been acknowledged, in granting the time extension.

6. The Learned counsel for the petitioner submitted that the deduction of Rs.2,77,440/- from the final bill was illegal, arbitrary, and unjustified. It is argued that the delay from 01.01.2011 to 31.03.2011 was not due



to any fault of the petitioner but was caused by the failure of the respondent Railway to provide essential structural drawings.

7. Reliance was placed on official correspondence where the lack of reinforcement drawings was acknowledged by the Assistant Divisional Engineer (ADEN), Darbhanga, and the Sr. Section Engineer, Madhubani.

8. It is further submitted that this short period of delay should also have been considered under Clause 17(A) (Administrative Grounds), not under Clause 17(B), which penalizes the contractor.

9. It is contended that the then ADEN II/DBG, in a letter dated 25.10.2015, confirmed that the structural drawings were made available on 17.03.2011 and this fact was also noted in the site order book.

10. A detailed counter affidavit was filed on behalf of the respondents. It is submitted that the time extension from 01.01.2011 to 31.03.2011 was granted under Clause 17(B) of the



GCC, based on the recommendation of ADEN-II/DBG, which categorically treated the delay as on the part of the contractor. It is not acceptable to convert this extension to administrative grounds under Clause 17(A), especially in light of the documented observations of slow progress, on the part of the petitioner.

11. It is further submitted that the reasons cited by the petitioner, such as root obstructions and excavation delays, were considered, but the delay was found to be attributable to the petitioner. The deduction of Rs.2,77,440/- is in accordance with Clause 17(B), which allows for recovery of liquidated damages in case of contractor-caused delays. The recovery is not penal in nature but as per the terms of the agreement. It is contended that there is no illegality in the issuance of the impugned recovery letter dated 22.11.2016 and prayed to dismiss the Writ petition.

12. Upon hearing the Learned counsel for the parties and after perusal of the pleadings



and the materials on record, the Court is of the considered view that the recovery of Rs.2,77,440/- from the petitioner's final bill was made in accordance with Clause 17(B) of the GCC, which permits recovery for delay attributable to the contractor. The competent authority based on recommendations and contemporaneous records, treated the delay from 01.01.2011 to 31.03.2011 as arising from the contractor's side, and thus the time extension was rightly granted under Clause 17(B).

13. This Court finds no procedural impropriety or violation of principles of natural justice in the issuance of the recovery order.

14. The supplementary affidavit filed by the petitioner introduces new pleas and documents were not the part of the original writ petition. This Court cannot permit enlargement of the scope of the original petition at this stage.

15. Furthermore, this Court observes that the dispute pertains to the interpretation and execution of a contractual clause. The jurisdiction



under Article 226 is limited in such matters, particularly where the contract itself provides for an alternative remedy, such as a civil suit. Additionally, in the absence of relevant documents, this Court is unable to adjudicate the petitioner’s case as the entire copy of the agreement was also not filed by the petitioner.

16. Accordingly, the writ petition is dismissed as devoid of merits.

17. Interlocutory Application(s), if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2025
Transmission Date	

