

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12764 of 2017

Imperial Foundation Through Sanjiv Kumar Managing Partner, 3rd Floor
Kunwar Complex, Opposite S.B.I., Kankarbagh Main Road, P.S. Kankarbagh,
District Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Rural Works, Government of Bihar, Patna.
3. The Engineer-in-Chief, Department of Rural Works, Government of Bihar, Patna.
4. The Chief Engineer-III, Department of Rural Works, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department , Work Circle- Chapra, P.S. and District- Chapra
6. The Executive Engineer, Rural Works Department, Work Division- I, Chapra, P.S. and District- Chapra

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Jha, Advocate
For the Respondent/s	:	M/s Kameshwar Prasad Gupta – GP10 Satya Vrat, AC to GP 10

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 13-10-2025

1 The petitioner has filed the instant application for the following reliefs:

“For issuance of a writ in the nature of Certiorari to quash Letter no. 1815, dated 18.09.13 of Ex. Engineer by which an order to the effect of recovering the deficit amount from other amounts of petitioner lying with the respondent was passed and further



for issuance of a writ in nature of Mandamus commanding the respondent to refund security deposit and earnest money in the form of bank guarantee of Agreement No. 10/2008-09 and 07/2009-10 U/PMGSY & Agreement No. 44-F2/2008-09 of MMGSY as well as money deducted U/head of extension of time with admissible interest as the work in question has been successfully completed and even the respondent no.6 Executive Engineer has issued completion certificate of the work in question."

2. The brief facts as culled out from the petition are that the petitioner is a registered Class II Contractor with the respondents having unblemished track record and was awarded following rural road construction contracts under the PMGSY and MMGSY schemes in Saran (Chapra) District:

(I) Agreement No. 07/2009-10 - from Repura Rasulpur Road to Gochi Chapra (PMGSY)

(ii) Agreement No. 10/2008-09 - from Paharpur to Akhaipur (PMGSY)



(iii) Agreement No. 44-F2/2008-09 -
from Manpur Garkha Road Ke Basant Pakwa Innar
to Ratanpura Basant via Gouhar Basant (MMGSY)

3. It is submitted that in compliance with standard tender Bidding Documents, the petitioner deposited earnest money in the form of Bank Guarantee / NSC (National Savings Certificate) /KVP (Kishan Vikash Patra) and in due course the respondent has deducted performance security while making certain payments. It is further submitted that completion certificates were issued by the concerned Executive Engineer (Annexures 1, 2 & 3). Additionally, certain deductions were made under the head "Extension of Time," which, according to the petitioner, are refundable after successful completion of the work.

4. It is contended that apart from the above, the petitioner was also awarded three other work contracts i.e., Agreement No. 84/2009-10 - REO Road to Sabalpur (PMGSY), Agreement No. 85/2009-10 - Bhawani Chapra to Deoria (PMGSY), Agreement No. 86/2009-10 - Paharpur to Sarwadih



(PMGSY).

5. It is claimed that these agreements are separate and distinct from the first three agreements. However, the contracts under Agreements 84, 85, and 86 were subsequently terminated, and the earnest money and security deposits related thereto were forfeited. The impugned Letter No. 1815 dated 18.09.2013 directed recovery of deficit amounts from the petitioner's dues, under the successfully completed and certified works.

6. The Learned counsel for the petitioner contended that the termination of Agreements 84-86 was arbitrary and caused by delays in fund allocation or lack of response from the department. It is further contended that recovery from unrelated contracts, which were successfully completed, is without jurisdiction and violative of principles of natural justice.

7. The Learned counsel further contended that the Executive Engineer himself had recommended "Extension of Time" for the



terminated contracts (Annexure-4). Despite repeated representations filed by the petitioner, there was no redressal for which the petitioner is constrained to approach this Court.

8. A counter affidavit was filed by the respondent Nos. 2 to 6.

9. The Learned counsel for the respondents submitted that the petitioner failed to complete the work under Agreement No. 86/2009-10. Even after lapse of 2 years and 10 months, only 27% of the work was done. Due to non-renewal of the bank guarantee and defects in the work, the Executive Engineer, Rural Work Department rescinded the agreement as per Clause 52 of the General Conditions of Contract (GCC). It is further submitted that the recovery under Letter No. 1815 dated 18.09.2013 was as per Clause 53.1 of the GCC.

10. It is further submitted that with regard to Agreement No. 86/2009-10, a final bill of Rs. 2,46,903 was prepared post-measurement on



25.08.2013. However, payment could not be made, due to the liability not being within the approved priority list and is currently pending before the Liability Committee through Letter No. 3200 dated 09.06.2018.

11. Heard the Learned counsel for the petitioner as well as the Learned counsel for the State and perused the record of the case.

12. This Court finds from the record that the petitioner successfully completed the works under Agreement Nos. 10/2008-09, 07/2009-10, and 44-F2/2008-09 and accordingly, completion certificates were issued by the Executive Engineer, and no dispute has been raised regarding the quality or timeliness for these three contracts. Further, vide Annexure-4, the Executive Engineer himself had forwarded recommendations for grant of extension of time for the terminated contracts, thereby acknowledging the delays that were solely not attributable to the petitioner. The impugned action of adjusting alleged liabilities arises out of separate and



unrelated contracts i.e., Agreement Nos. 84, 85, and 86 of 2009-10, against amounts due under completed contracts and is not supported by any clause that permits such set-off, especially in the absence of a clear determination of liability. The respondents have not denied that the petitioner was entitled to receive payment under the completed contracts, including refund of earnest money, performance security, and deductions made under the head of "extension of time". The relevant clause on payment upon termination as cited in the agreement mandates issuance of a certificate for the work done. However, no such certificate was placed on record showing due calculation or justification for the recovery made.

13. This Court is of the considered view that the impugned Letter No. 1815 dated 18.09.2013 is arbitrary and violative of the principles of natural justice, particularly as it relates to contracts that stand completed with formal certifications and where no fault has been found.



14. In light of the above findings Letter No. 1815 dated 18.09.2013 is hereby quashed. The respondents are directed to refund the security deposit, earnest money, and deductions made under the head of extension of time in respect of Agreement Nos. 07/2009-10, 10/2008-09, and 44-F2/2008-09, within a period of two months from the date of receipt or production of a certified copy of this order.

15. With the above observations and directions, the writ petition is allowed.

16. Interlocutory Application, if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.10.2025
Transmission Date	

