IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18918 of 2013

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M/s Panchsheel Softwares (a unit of Panchsheel Agroils Exports India Pvt. Ltd.), with a Camp Office, C/o Collector, Sitamarhi Through its Authorized Signatory Sh. Devendu Kumar Jha

... ... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Secretariat, Patna
2. The Principal Secretary Revenue And Land Reforms Department, Govt. Of Bihar, Patna
3. The Director, Land Records And Surveys, Bihar, Patna
4. The Collector, Sitamarhi District, Bihar
5. The State Informatics Officer Sio, National Informatics Centre NIC, 3rd Floor, Technology Bhawan, Bailey Road, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Namrat Mishra, Sr. Advocate Alok Ranjan, Advocates
For the Respondent/s	:	Mr. Rishiraj Sinha Mr. Sarvesh Kumar, GP 24

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 03-03-2025

1. The petitioner has filed the Writ petition for the following reliefs:-

> *"(I) For quashing of Letter No. 628 dt. 26.03.2013 issued by the Secretary-cum-Director of Land Records and Surveys to the extent that it provides that Letter No. 1928 dt. 07.12.2012 of the Principal Secretary, Revenue be implemented from the date of the Letter and also not in such cases where work of data entry is being done prior to Letter No. 1928 dated*

07.12.2012 and thereupon for a direction to the respondents that the order of Principal Secretary, Revenue contained in Letter No. 1928 dated 07.12.2012 be made effective for the purpose of rate and calculation of work of data entry of land records being done by the petitioner-Company in the WINDOWS platform in the district of Sitamarhi in the light of clause 3 of the Agreement dated 14.08.2010. Alternatively for a direction to the respondent-authorities to make payment of the work done (data entry) by the petitioner -Company as per the rate and K.B. calculation, as agreed upon in the Clause No. 3' of the Agreement entered between petitioner-company and District Administration.

(II) For also directing the respondents to pay interest @ 2% per month on all delayed payments of bills.

(III) And also for a direction to the respondents to award compensation to petitioner- agency for the irregularities and hardships faced by it while working on the newly/not properly developed WINDOWS Software.

(IV) Further for directing the respondents to make payment of the bills along with service tax implemented by the Government w.e.f. 31.07.2012.

(V) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case..”

2. The petitioner is a Private Limited Company, registered under the Companies Act, 1956, with its registered office located at 55 Vaishali, Kotrasultanabad, Bhopal. It also has a camp office at the Sitamarhi Collectorate and at other respective Collectorates, where work related to the computerization of land records was carried out

3. It is submitted by the petitioner in the Writ petition that the computerization of land records is a Central Sector Scheme with 100% financial assistance from the Government of India. The project began in the year 1988-89 in Singhbhum, Bihar, as a pilot project, and was

implemented through the National Informatics Centre (NIC) using available computer networks in the district. It is further submitted that NIC, Bihar Unit, failed to manage the data entry of land records, within the stipulated time frame. To ensure timely completion, the Government of Bihar decided to engage private agencies and hire additional terminals and operators on a pro-rata job contract with a specific timeline. The Government issued detailed directions for the computerization of land records in all districts of Bihar vide Letter No. 863 dated 30.09.2000. Further, NIC, Bihar, developed UNIX-based software "Bhu-abhilekh," and the vendor was tasked with computerizing handwritten land records in Bihar. It is further submitted by the petitioner that the the Government of Bihar vide Letter No. 863 dated 30.09.2000 adopted the data entry rate of Rs. 2.80 per Kilo Byte (KB) as per the West Bengal Government's rate for DOS platforms, though the NIC, Bihar unit developed a more expensive UNIX-based and later WINDOWS-based software for data entry.

4. The Learned counsel for the petitioner submitted that the petitioner agency entered the field of land record computerization, in the month of February 2002 and was selected for various districts in Bihar, with Memorandums of Understanding (MOUs), agreements, and work contracts entered with the respective District Administration. These agreements outlined the work execution method, billing and payment rates. Initially, the data entry agreements for districts like Darbhanga, Madhubani, Bhagalpur, Kishanganj, and Araria were based on the UNIX platform developed by the NIC. The payment for the work done was based on the Kilo Byte (KB) calculation of one khesra based total structure of on four files as recommended by NIC. The petitioner agency submitted bills according, to the agreed KB calculation, and payments were made by the State of Bihar, though some payments still remain overdue. It is further submitted by the Learned Senior counsel for the petitioner that the Revenue

Department later instructed NIC, Bihar Unit to switch to a WINDOWS-based platform, due to the declining support for UNIX. The new technology, though globaly used and advanced, was expensive and slower, requiring additional hardware and mouse input, which significantly slowed data entry. While working with the new "Bhuabhilekh-2" software (WINDOWS), the petitioner agency faced two major issues: *(a) The Software was found full of technical errors as the NIC developed the "Bhuabhilekh-2" without proper testing of the Software. NIC compelled the petitioner-company to use the new software by trial and error. The company since January 2008, pointed out the technical errors of the new software, NIC kept on testing the same software through the petitioner - company at company's time and cost and even today the Software cannot be said to be error free.*

b) The operational cost of working under this new technology WINDOWS came out to be disproportionately very high, because of its fundamental nature of GLOBAL USE and very slow *inputting speed on account of use of Font " Hindi Indic IME" and MOUSE 10 to 12 times in one khesra data entry. The inputting speed under the WINDOW platform is very slow as compared to the UNIX platform which can be illustrated through an example that under UNIX platform "press just one 'key' for 'chha' and the hardware through gist card will give 'chha' but under Windows platform, one has to press four keys of c,h,h,a to get 'chha'.*

The use of the new WINDOWS software other wise also is very expensive it involves heavy operational costs.

5. It is further submitted by the Learned Senior counsel for the petitioner that the representative of the petitioner company met the then Principal Secretary and the Director Land Records and conveyed about the technical error being encountered, while working under WINDOWS vide Letter dated 14.01.2008 (Annexure-3) and Letter Dated 24.04.2008 (Annexure3/1) and vide Letter dated 23.02.2008 (Annexure-4) explained the Principal Secretary about the computerization

of operating cost and requested to increase the data entry rate from Rs. 2.80 per KB to Rs. 3.60 per KB under the new WINDOWS platform. The Principal Secretary assured the company that the rate revision would be approved, and directed to continue the work of data entry. The Principal Secretary, Revenue, vide his Letter No. 569 dated 27.05.2008 (Annexure 5) directed the Collectors of the Districts to submit comparative chart of the UNIX rate and new proposed WINDOWs rate in consultation with the company.

6. It is submitted by the petitioner in the writ petition that, despite repeated requests from the company to increase the rate, no progress seemed to take place. As a result, the company became reluctant to take on any new CLR projects. Accordingly, while entering into agreements for the Muzaffarpur district, Clause No. 3 of the agreement was modified to the effect that an increased rate for data entry would be allowed whenever approved by the Bihar Government. The amendment/modification of Clause No. 3 with

respect to the rate was made while entering into agreements for the following districts: (i) Sheohar, (ii) Bettiah, (iii) Madhepura, (iv) Patna, and (v) Begusarai. However, it was agreed that until the revision, the approved rate for data entry would remain Rs. 2.79 per KB, as calculated and followed on the basis of four files under Unix (Annexure -6).

7. The Learned Senior counsel for the petitioner submitted that upon starting work under the WINDOWS platform, the petitioner company sought clarification from the Principal Secretary, Revenue and the NIC regarding the KB calculation method. For months, there was no response from the Government and the Company, continued the work of data entry. The lack of a clear calculation method hindered the payment process.

8. It is further submitted that in the year 2009, NIC developed a logistic and fitted in software Bhuabhilekh-2, to calculate KB on key stroke basis. This method reduced the KB calculation by more than 50% and even below as

compared to the UNIX- generated quantum causing significant financial loss to the petitioner. The petitioner company aggrieved by the new logistic formula, immediately made complaint to the Principal Secretary and NIC. The new key stroke-based KB calculation, which was applied inconsistently across districts, resulted in payments that were significantly lower than the previous UNIX-based calculations, causing further financial distress to the petitioner. Finally, in the year 2010, NIC disclosed and accepted in the letter (Letter No. BRSC)/65/2010 dated 16.11.2010) that some of the disctricts made Khesra Number as basis of payment and not KB . The aforesaid KB calculation resulted into only 84% output (work done) as compared to the computer calculation of quantum of 100% under UNIX-based system, causing further 15-16 % quantum loss to the company. The Principal Secretary questioned NIC's approach, but left the decision to NIC. In the month of December 2012, the Principal Secretary issued a Letter revising the rate and calculation of KB method and vide Letter No. 1928 dated 07.12.2012 removed the caping of Rs. 2.8 per KB and permitted the District Collector to decide rates as per conditions by calling open tenders. This revision also allowed per Khesra calculations instead of the complex KB-based calculations. Despite this revision, district officials misinterpreted the Letter and began cancelling earlier agreements with the agencies, ultimately prompting a clarification from the Secretary – cum – Director vide Letter No. 618 dated 26.03.2013 that the letter dated 07.12.2012 does not intend to cancel earlier agreement and the agencies are to be paid based on the terms of earlier agreements, but would be effective from the date of letter or for new tender. The petitioner agency, facing non-payment and financial strain, demanded the revised rate and correct KB calculation method from the district authorities in month of December 2012. For districts of Sitamarhi, Sheohar, Bettiah, Madhepura, Patna and Begusarai, where agreements, Clause 3 explicitly specified rate of payment of Rs. 2.79 per KB, the payments were made based on the new WINDOWS-based KB calculation, resulting in only 84% of the expected work output. Under the WINDOWS platform, the petitioner agency faced compounded losses due to the lack of a rate revision and the flawed KB calculation method. Payments were delayed, and the agency incurred penalties and consequences from the Bank and Income Tax Department.

9. It is submitted by the Learned Senior counsel for the petitioner that the petitioner agency has been left with no alternative but to approach the Court for the relief sought due to the government's failure to act in accordance with the agreements.

10. A counter affidavit was filed on behalf of the respondents. It is contended in the counter affidavit that the writ petitioner, is engaged in the computerization of land records in Sitamarhi district under an agreement executed on 14.08.2010. The rate for the computerization work was revised by the Principal Secretary, Revenue

and Land Reforms Department, Bihar, Patna, vide Letter No. 1928 dated 07.12.2012. Furthermore, as per the Letter No. 628 dated 26.03.2013 issued by the Secretary-cum-Director, Department of Land Records and Survey, Bihar, Patna, the new rate is applicable from the date of issue of Letter No. 1928 dated 07.12.2012.

11. It is further submitted in the counter affidavit that the petitioner agency is duty-bound to complete the computerization work using the developed Windows software and is not entitled to compensation for any difficulties faced while working on the newly developed software. It is further submitted that the petitioner agency is not entitled to Service Tax until instructions are received from the government. The agency is entitled only to payment, as per the work calculation done by NIC, in accordance with the rates fixed/approved/agreed upon by the government.

12. The respondent No. 4 filed supplementary counter affidavit in which a

paragraph wise reply has been given. It is submitted by the 4th respondent that the Commissioner and Secretary, Department of Revenue and Land Reforms, Patna, issued direction vide Letter No. 863 dated 30/09/2000 (Annexure-1 to the writ petition) for the computerization of land records, with a fixed rate of Rs. 2.80 per KB, as adopted by the Government of West Bengal. The petitioner agency, after being selected for computerization work in various districts of Bihar, entered into an agreement dated 14/08/2010 with the District Administration, Sitamarhi, for completing the computerization work of Bhu-Abhilekh (Land Records) in Sitamarhi. It is submitted in the supplementary counter affidavit that the petitioner has been paid an amount of Rs. 39,46,171/- for the computerization work, as fixed by the Department of Revenue and Land Reforms, Bihar, Patna.

13. The respondent has not replied to the statements made in paragraphs 03 to 09 of the writ petition, as they are related to records.

14. Further, the respondent has stated in the supplementary counter affidavit that the statements in sub-paragraphs (a) and (b) of paragraph No. 10 of the writ petition needs no comment.

15. The 4th respondent further submitted with regard to the statements made in paragraph No. 11 to 25 of the writ petition that they are related to the record and partly to the submissions of the petitioner before this Court, hence need no comment. The agency has already received its genuine claims. Under the facts and circumstances mentioned, the respondents prayed that the present writ petition should be dismissed

16. Heard the Learned Senior counsel for the petitioner and the Learned counsel for the State and perused the records.

17. Upon reviewing the records, this Court finds that the petitioner agency began the computerization of land records, in Bihar from the February 2002 and was selected for the project in various districts. An M.O.U./Agreement/Work

Contract was signed with the respective district administrations, outlining the terms, including the method of work, work calculation, and payment rates. Initially, the agreement covered the districts of Darbhanga, Madhubani, Bhagalpur, Kishanganj, and Araria, using the UNIX platform developed by NIC. Payment was based on Kilo Byte (KB) calculations for one Khesra, following a four-file structure recommended by NIC. The District Information Officers (DIOs) calculated the average KB for payment purposes, and the petitioner submitted bills accordingly. Payments were made by the State of Bihar, though some remain overdue. Subsequently, under instructions from the Revenue Department, NIC developed new software, "Bhuahilekh-2," transitioning from the UNIX platform to a Windows-based platform due to the decline of UNIX technology. The Windows technology proved more expensive, slower, and required new hardware, which significantly slowed down data entry. On 01.10.2007, the Revenue Department mandated the switch over to the

Windows platform. However, the petitioner faced two major issues: (a) the software was error-prone due to insufficient testing by NIC, resulting in delays and additional costs, and (b) the operational costs were high due to slow input speeds when compared to UNIX. Despite raising these concerns with the Principal Secretary and Director of Land Records, who assured that the data entry rates would be revised for the new Windows platform, no progress was made. This led to the petitioner hesitating to take on new CLR projects. Consequently, Clause No. 3 of the agreement for the Muzaffarpur district was modified to allow for an increased rate whenever approved by the Bihar Government. This modification was also incorporated in agreements for Sheohar, Bettiah, Madhepura, Patna, and Begusarai. However, until the rate revision was made, the approved rate for data entry remained Rs. 2.79 per KB, based on the UNIX platform.

18. This Court further finds that on 07.12.2012, the Principal Secretary, Revenue and

Land Reforms Department, issued letter No. 1928 revising the KB rate and calculation for work done. This letter informed the District Collectors about the revision and directed the selection of agencies to complete the computerization of land records in Bihar by 31.03.2013. The Department removed the Rs. 2.80 per KB cap and allowed the district Collectors to set rates via open tenders. The complex KB calculation suggested by NIC was replaced with a per Khesra calculation. Additionally, Letter No. 618 dated 26.03.2013 clarified that letter No. 1928 did not intend to cancel prior agreements, and that payments for work already started would proceed according to the previous agreements, while the new rates would apply to future tenders. The petitioner, in its letter dated 26.12.2012, requested the revised rate and KB calculation based on Letter No. 1928 for districts where the Agreement did not specify the KB calculation. The petitioner highlighted that in districts such as Sitamarhi, Sheohar, Bettiah, Madhepura, Patna, and Begusarai, the Agreement specifically set a rate of Rs. 2.79 per KB based on the UNIX platform’s four-file structure. However, payments were being made based on the NIC’s revised KB calculation, resulting in only 84% of the output and causing a 16% loss compared to the original UNIX calculation.

19. The Learned Senior Counsel for the petitioner submitted that under the Windows software, the loss was further amplified, as payments remained at the outdated 2002 rate, despite the Department acknowledging the need for revision. The NIC’s KB calculation further resulted in a 16% loss of work done, increasing the financial loss. It is not in dispute that the work agreement was executed between the parties on 14.08.2010.

20. In view of the above, this Court finds that letter No. 618 dated 26.03.2013 does not hold legal validity.

21. Therefore, this writ petition is allowed. Letter No. 618 dated 26.03.2013, issued by the Secretary-cum-Director of Land Records and

Surveys, is hereby quashed to the extent that it provides for the implementation of letter No. 1928 dated 07.12.2012 from the date of the letter and excludes cases where data entry work was being done prior to letter No. 1928. The respondents are directed to implement the order of the Principal Secretary, Revenue, as contained in letter No. 1928 dated 07.12.2012, for the purpose of rate and calculation of data entry work on the Windows platform in the district of Sitamarhi, in line with Clause 3 of the Agreement dated 14.08.2010. Further, the respondents are directed to pay interest @ 2 % per month on the delayed payments of bills.

22. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2025
Transmission Date	