

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10749 of 2017

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M/s Harsh Construction Company, a partnership firm through its partner and signatory namely Vinod Kumar, Son of Late Ramesh Prasad Singh, resident of at PO- Daniyawan, Police Station- Daniyawan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Rural Works Department, Government of Bihar, Patna
2. The Chief Engineer, Local Area Engineering Organization, Visheshwariya Bhawan, Beli Road, Patna.
3. The District Magistrate, Patna.
4. The Superintending Engineer, Local Area Engineering Organization, Planning and Development Departme
5. The Executive Engineer, Local Area Engineering Organization, Work Division-1, District- Patna.
6. The Assistant Engineer, Local Area Engineering Organization, Work Division-1, District- Patna.
7. The District Panchayati Raj Officer, Patna.
8. The Sub-Divisional Officer, Patna City.
9. The Deputy Collector Land Reforms, Patna City.
10. The Circle Officer, Daniyawan, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Kumar Alok-SC 7
		Mr. Rakesh Kumar, AC to SC 7

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 02-09-2025

1. The writ petition is filed for the following reliefs:

“(i) For issuance of an order, direction or writ in the nature of Mandamus commanding the respondents to ensure the payment of admitted dues to



the tune of Rupees 13, 54,712-00 along with interest at market rate to the petitioner for which actual work was done for the construction of Panchayat Bhawan on the plot bearing Khata No. 7255, Khesra No. 1402 under Mauza-Daniyawar.

(ii) For granting any other relief or reliefs to which the petitioner may be found entitled to in the facts and circumstances of this case. ”

2. The case of the petitioner, in brief, as culled out from the Writ petition is that the petitioner entered into an agreement with the respondent authorities vide Agreement No. 27F2/2014-15, dated 07.06.2014, for the construction of a Panchayat Sarkar Bhawan at Daniyawar, Patna. A formal work order was issued on the same date under Memo No. 1112.

3. It is submitted that after getting instruction for construction work the petitioner faced interference and obstruction from some interested local villagers. The matter was duly brought to the notice of the Executive Engineer,



who accordingly communicated with the Circle Officer, Daniyawan, vide Letter No. 1141 dated 12.06.2014, seeking necessary cooperation for peaceful execution of the construction. It is further submitted that despite several communications and efforts, construction could not be commenced until 28.12.2014, due to persistent local disturbances.

4. It is contended that the petitioner started construction work but on 05.02.2015, the Sub-Divisional Officer, Patna City, intervened and directed to stop the construction work.

5. It is further contended that the petitioner on 06.02.2015 made written information regarding the situation, which was also countersigned and supported by the Assistant Engineer. Subsequently, Executive Engineer (Respondent No.5), vide Memo No. 271 dated 12.02.2015, addressed the District Magistrate, Patna, requesting to take necessary steps regarding the situation, highlighting that the plinth work was completed and raw materials



were still lying on the construction site.

6. The Learned counsel for the petitioner submitted that the Collector, Patna, vide Letter dated 21.02.2015, directed the Circle Officer that the construction was started only after making necessary formalities. However, objections were raised by local people regarding the nature of the land, which was entered in khatian as Pond and comes under Sairat. The Collector directed to delete the name of land from Sairat so that construction work could be completed and during the process of deletion from Sairat list, the work in question cannot be allowed to continue.

7. It is further submitted that CWJC No. 1488 of 2015, was filed before the Court challenging the construction, which was disposed of by this Court on 13.03.2015, directing the aggrieved parties to approach the Collector, Patna, for redressal of any grievance. Despite repeated representations from the petitioner and respondent No.5, no effective step was taken to resolve the issue.

8. It is further contended that the



respondents have duly maintained and recorded the entries for work completed by the petitioner as per the agreement and actual work as per Site Order Book but only an amount of Rs. 16,69,977/- was paid and a sum of Rs. 13,54,712/- remains unpaid, according to the actual calculation made by the petitioner (Annexure-1). This was supported by a Comparative Statement submitted by the Assistant Engineer on 15.06.2015.

9. The Learned counsel argued that the Comparative Statement prepared by respondents show that the petitioner has claimed less amount for work done as he is not claiming damages of the unutilized raw material which was brought for construction. Pursuant to the comparative chart respondent No.5, vide Letter No. 1056 dated 13.07.2015, also requested Respondent No. 4 for sanctioning of the dues amount.

10. The Learned counsel for the petitioner submitted that the petitioner is still ready and willing to complete the remaining work at revised rates, considering the escalation in costs over



time, and seeks relief from the Court in light of the hardship caused by the inaction of the authorities.

11. A detailed counter affidavit was filed by Respondent Nos. 2, 4, 5 and 6. It is averred that the dispute is concerning the nature of the land in question which is Sairat and it is transferred to the Fisheries Department. The Collector, Patna, vide letter dated 21.02.2015 (Annexure-6), directed the Circle Officer, Daniwan to stop the construction work till the diversion is taken with regard to removal of plot in question from list of Sairat.

12. It is contended by the Learned counsel for the respondents that the Circle Officer, Daniyawan, vide Letter No. 173 dated 23.02.2015, informed the Executive Engineer that the plot in question is Sairat land and, therefore, it is transferred to the Fisheries Department, as such, in this view, work could only be resume after transfer of plot or after issuance of No Objection Certificate (NOC) from the concerned department.

13. It is further contended that the



respondents acknowledged that work executed by the petitioner was measured on 14.03.2015, and payment of Rs. 16,69,977/- was made accordingly, inclusive of all taxes and cess.

14. It is further submitted that during construction, certain extra works which were not part of original estimates was found necessary. The concerned Assistant Engineer submitted a Comparative Statement, reporting that excess work amounting to Rs. 17,09,639/- was required. However, since the amount was tentative amount for all extra work which would be incurred if the revised work would have been done by the petitioner but in the present case revised estimate was never sanctioned, therefore, payment of the said additional amount to the petitioner cannot be considered.

15. Thus, the Learned counsel for the respondents submitted that the amount already paid covered the sanctioned work. In the present case revised payment was never approved by the competent authority and as such the claim of



petitioner is fit to be rejected.

16. The Learned counsel for the respondents in light of the above facts prays for dismissal of the writ petition, as devoid of merits.

17. Heard the Learned counsel for the petitioner and the Learned counsel for the respondents. Perused the records.

18. From the records, it transpired that it is an admitted position that the petitioner had executed construction work under an agreement dated 07.06.2014, and partial payments have been made. It is also evident from the materials on record, particularly paragraphs (xii) to (xiv) of the counter affidavit, that the land in question was identified as Sairat, as a result of which further construction could not be proceeded. The petitioner was paid Rs. 16,69,977/-, as per the work done by him. Although extra work was reported and assessed by the Assistant Engineer, revised estimate was never sanctioned by the competent authority.

19. In the absence of a sanctioned revised



estimate, the petitioner cannot claim entitlement to additional payments, beyond what has been released. The recommendations made by subordinate officers do not carry any binding effect unless duly approved by the competent authority.

20. The Court further observes that the petitioner's grievance arises largely due to non-resolution of land classification issues, which were beyond his control. However, in contractual matters, Courts cannot direct payment for work that lacks sanction or administrative approval on sympathetic considerations.

21. Admittedly, an alternative remedy is available to the petitioner under the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008.

22. Accordingly, this Court is of the considered view that the petitioner may avail the remedy by approaching the Tribunal, within one month from the date of receipt of the order and the Tribunal shall adjudicate the matter within three months from the date of filing of the reference



case. The Tribunal shall also liberally construe the aspect of limitation, as the Writ petition was filed in the year 2017

24. With the aforesaid observations, the Writ petition stands disposed of.

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

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(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.09.2025
Transmission Date	

