

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7730 of 2023

=====

Anil Kumar Son of Late Deo Sahay Singh Resident of Rajmuni Bhawan, S.K. Puram, Near Arya Samaj Mandir, Bailey Road, Danapur, P.S.-Danapur, District-Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Bihar.
2. The Principal Secretary, Building Construction Department, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub-Divisional Magistrate, Danapur, Patna.
5. The Executive Engineer, West Patna Building Division, Building Construction Department, Patna.
6. The Assistant Engineer, Building Sub-Divisional, Danapur, Building Construction Department, Patna.
7. The Director, Recruiting, Recruiting Office (HQ), Headquarter Recruiting zone (Bihar and Jharkhand), Danapur, Patna.
8. The Nazarat Deputy Collector, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8102 of 2023

=====

Anil Kumar Son of Late Deo Sahay Singh Resident of - Rajmuni Bhawan, S.K. Puram, Near Arya Samaj Mandir, Bailey Road, Danapur, P.S.- Danapur, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Bihar.
2. The Principal Secretary, Building Construction Department, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub-Divisional Magistrate, Danapur, Patna.
5. The Executive Engineer, West Patna Building Division, Building Construction Department, Patna.
6. The Assistant Engineer, Building Sub-Division, Danapur, Building Construction Department, Patna.
7. The Director, Recruiting, Recruiting Office (HQ), Headquarter Recruiting Zone (Bihar and Jharkhand), Danapur, Patna.
8. The Nazarat Deputy Collector, Patna.



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 7730 of 2023)

For the Petitioner/s : Mr. Anuj Kumar, Adv.

For the Respondent/s : Mr. Amit Prakash (Ga13)

(In Civil Writ Jurisdiction Case No. 8102 of 2023)

For the Petitioner/s : Mr. Anuj Kumar, Adv.

For the Respondent/s : Mr. Sushil Kumar (Gp 22)

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

12 11-02-2025 Heard the learned counsel for the parties.

Civil Writ Jurisdiction Case No.7730 of 2023

2. This writ petition has been filed for the following
relief(s):-

*“(I) For Quashing the Letter No.-
5860 Dated- 14.12.22, by which the claim of the
petitioner for payment of Rs.6,26,038/- against
the work done under Agreement No. 196 of
2016-17 has been rejected without assigning
any reason and without giving an opportunity to
the petitioner of being heard in terms of the
order dated-20.09.2022 passed in CWJC No.-
2660/2020 by the Division Bench of The
Hon’ble Chief Justice and Hon’ble Justice S.
Kumar.*

*(II) For making the payment of Rs.
6,26,038/- along with statutory interest which
has been wrongly deducted by the respondents
from the bill amount payable to the petitioner
against the work done under Agreement No. 196
of 2016-17 with Respondent No.-4 by the
petitioner after making entry in the*



measurement book and issuing completion certificate by the concerned authority without assigning any reason for deduction and cutting in amount entered in measurement book.”

Civil Writ Jurisdiction Case No. 8102 of 2023

3. This writ petition has been filed for the following relief(s):-

“(I) For quashing the Letter No.- 5860 Dated- 14-12-22, by which the claim of the petitioner for payment of Rs.3,40,518/- against the work done under Agreement No. 197 of 2016-17 has been rejected without assigning any reason and without giving an opportunity to the petitioner of being heard in terms of the order dated – 20.09.2022 passed in CWJC No.- 2665/2020 by the Division Bench of The Hon’ble Chief Justice and Hon’ble Justice S. Kumar.

(II) For making the payment of Rs.3,40,518/- along with statutory interest which has been wrongly deducted by the respondents from the bill amount payable to the petitioner against the work done under Agreement No. 197 of 2016-17 with Respondent No.-5 by the petitioner after making entry in the measurement book and issuing completion certificate by the concerned authority without assigning any reason for deduction and cutting in amount entered in measurement book.”



3. Having regard to the fact that the question involved in both the cases are one and the same, both the writ petitions are disposed of by this common order. It is the case of the petitioner that without any prior intimation or putting the petitioner on notice, the authorities have reduced the amount payable to the petitioner unilaterally without any rhyme or reason. Learned counsel has stated that the representation made by the petitioner was rejected in an arbitrary manner and the impugned order vide memo No. 5860 dated 14.12.2022 (Annexure-11), has being passed. Learned counsel has stated that had the authority before passing the impugned order, given them an opportunity of hearing, they could had present their case and got favourable orders in their favour. However, in this case, the petitioners were denied the said opportunity. Learned counsel has, therefore, prayed for allowing the present writ petition and setting aside the impugned orders .

4. *Per contra*, the learned counsel appearing on behalf of the respondents have vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that there are all disputed questions of fact which cannot be gone into by this Hon'ble Court more particularly adjudicating under Article 226 of the Constitution of India.



Learned counsel for the petitioner has stated that the petitioner may either be directed to approach the arbitrator or file a civil suit before a competent civil court having the jurisdiction. Learned counsel has, therefore, prayed the Court to dismiss the present writ petition.

5. A perusal of the impugned orders reveals that the petitioner was not put on prior notice before the impugned orders were passed. Passing of any adverse orders against the petitioner without putting them on prior notice is contrary to the principles of natural justice and equity and therefore bad in law. This Court is of the *prima facie* opinion that the ends of justice would be met if the impugned orders are set aside and the matter remanded back to the authority concerned for deciding the issue afresh after duly putting the petitioners on notice and giving them an opportunity of hearing.

6. Having regard to the above, the impugned orders are set aside and the matter remanded back to the authority concerned i.e. the Executive Engineer, West Patna Building Division, Building Construction Department, Patna (Respondent No. 5) for passing necessary orders afresh on merits. The authority shall put the petitioners on notice and give them an opportunity of hearing. Any order passed shall be



communicated to the parties. In case any adverse orders are passed, the petitioner is free to challenge the said order before the appropriate forum.

7. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Gauravkr/-

U			
---	--	--	--

