

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17953 of 2016

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M/s B. Prasad And Company through its Partner Bisheshwar Prasad, Son of Late Khemlal Sah, Resident of P & T Colony, Harnichak, Anishabad, P.S. Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Patna Municipal Corporation through the Municipal Commissioner having its office at Buddha Marg
3. The Executive Engineer, Division-E, Patna Municipal Corporation, Patna.
4. The Union of India through Central Public Works Department, Patna Central Mandal-I.
5. The Executive Engineer, C.P.W.D., Patna Central Mandal-I, Pinai Chak, Patna
6. Accountant General Office, Bihar at Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv. Mr. Baban Kr. Adv.
For the State	:	Ms. Sushmita Sharma, AC to SC9
For the AG:	:	Mr. Raj Nanda Prasad, Mr. Vishesh Kr. Singh,
For the PMC	:	Mr. Ranajay Kumar, Adv.

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 24-01-2025

1. The Writ petition is filed to direct the respondent authorities to make payment of Rs. 3,16,828/- which is the admitted due against the work done by the petitioner in connection with the supplementary agreement bearing No. 17/E/08 dated 18.06.2008, as the entire work pursuant to the agreement has been completed and acknowledged by the respondent.



2. The brief facts arising out of the Writ petition disclose that the respondent authorities had floated a tender for cleaning drains of the “Serpentine Katchha Drain” from “Dhobi Ghat Chitkohara to Tara Mandal” for the year 2007-08. The petitioner, who was one of the other bidders, was found eligible for the work. Thereafter, an agreement was entered between Patna Municipal Corporation and the petitioner bearing No. 17/E/08, and a work order was issued in favour of the petitioner on 17.05.2008. The Central Public Works Department (C.P.W.D.), Government of India, was constructing permanent drains for Serpentine Nala in the south of A.G. Campus. Due to the said construction, the work of Serpentine Ktachha Drain became dead and people of the localities suffered inconvenience. The officials of C.P.W.D. and P.M.C. concluded that there was a necessity to construct a diversion Nala parallel to the Serpentine Nala in south of A.G. Campus and as per the said discussion, an estimate was prepared, and another tender was floated for construction of the diversion Nala.



In the said process, the petitioner was again found eligible and executed a supplementary agreement, pursuant to the work order issued to him on 18.06.2008. Accordingly, the petitioner duly completed the work, and the measurements of work were noted. A bill was prepared for an amount of Rs. 3,16,828/-. However, the amount has not been paid till date, the petitioner has been constrained to approach this Court for the relief as sought above.

3. The counter affidavit of the respondent No.1 disclose that the Special Secretary, Urban Development and Housing Department, Bihar, promptly sent a letter vide letter No. 8342 dated 14.11.2016, bringing the fact of the writ petition to the notice of the Municipal Corporation, Patna, requesting it to file a detailed counter affidavit.

4. The counter affidavit of the 6th respondent, Accountant General, disclose that the preliminary estimate for construction of a boundary wall along the Nala at A.G. Office, Patna was provided by C.P.W.D., amounting to Rs. 18,15,195/-. The Senior Audit Officer, (Administration)



vide letter dated 17.02.2010, addressed to the Executive Engineer, Civil Patna, Central Division No.01, C.P.W.D., Patna that an expenditure of Rs. 18,16,000/- should be sanctioned for the construction of compound wall to segregate the office from the residential area. The Executive Engineer, Nutan Division, South, Patna Municipal Corporation, vide Memo No. 53 dated 26.03.2010, addressed to the Executive Engineer No.1, C.P.W.D., Punaichak, Patna, mentioned the creation of a division channel for the Serpentine Nala, parallel to permanent drain in the south of A.G. Campus. Further, the counter affidavit disclose that the demand of Rs. 3,16,828/- for the work with respect to Kachha Nala made by the petitioner, is nowhere related to the answering respondent as the scope of the work item with respect to Kachha Nala A.G. Campus was already part of C.P.W.D. revised preliminary estimate.

5. The counter affidavit of respondent No. 2, 3 & 5, the Executive Engineer of Patna Municipal Corporation disclose that the entire cost of work is to be



borne by C.P.W.D., Patna, Central Mandal 01, Government of India, which is the 4th respondent in the present Writ petition. The Executive Engineer, Nutan Rajdhani Anchal, P.M.C. vide letter No. 506 dated 10.12.2010, as contained in Annexure-04 of the Writ petition, forwarded the measurements of work done to the C.P.W.D. with a request for reimbursement and payment of Rs. 3,16,828/-, however, the said amount has not been received till date. Further, the counter affidavit shows that the C.P.W.D., in its letter, contained in Annexure-5, disclose that the case of the petitioner was submitted to P.A.G. Office for approval of funds, which could be only deposited, with permission of the said office and the C.P.W.D. was solely responsible for make the payment of the claimed amount.

6. Heard the Learned counsel for the petitioner and the Learned counsel for the respondents. Perused the records. There is no representation for respondent No.4, C.P.W.D. for a long time.



7. This Court has adjourned the matter many times to permit the respondent No.4 to appear through counsel, in spite of repeated opportunity, none appeared. Therefore, this Court is constrained to pass an appropriate order.

8. On perusal of the entire report, it is evident that an agreement was entered into between the petitioner and the Executive Engineer, P.M.C. for execution of the work. The record further reveals that an amount of Rs. 3,16,828/- is an admitted due by the respondents, for which, the petitioner has been waiting since 2008. The Writ petition was filed in the year 2016 and has remained pending for adjudication.

9. None appeared for the 4th respondent, C.P.W.D. and no counter affidavit has been filed in this case. However, as per the counter affidavits of the respondent Nos. 2, 3 & 5, the due amount is admitted but the only contention of the Learned counsel for the P.M.C. is that the amount has to be disbursed by the 4th respondent, C.P.W.D.



10. This Court takes into consideration that the agreement was entered into between the petitioner and the Patna Municipal Corporation (P.M.C.) and any financial adjustment or liability between C.P.W.D. and P.M.C. do not affect the petitioner’s rightful claim, therefore, this Court observes that the petitioner is entitled for the said amount of Rs. 3,16,828/- along with interest at the rate of 6% per annum till the date of deposit. The 2nd respondent, Patna Municipal Corporation and the 4th respondent, C.P.W.D. shall deposit the said amount along with 6% interest in the account of the petitioner or hand over the amount by way of cheque within four months from the date of receipt of this order.

11. With aforesaid directions, the Writ petition is allowed.

(G. Anupama Chakravarthy, J)

Amandeep/-
Manish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.02.2025
Transmission Date	

