

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19299 of 2024

Prem Pratap Ray, son of Shri Ram Pratap Ray, Resident of Village-Raidih,
Post-Meenapur Rai, Police Station-Hazipur Sadar, District-Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through its the Principal Secretary, Planning and Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Planning and Development Department, Government of Bihar, Patna.
3. The Chief Engineer, Planning and Development Department, Vishwesharaiya Bhawan, Bailey Road, Patna-800015.
4. The Superintending Engineer, Local Area Circle, Muzaffarpur, Combined Building, Muzaffarpur.
5. The Executive Engineer, Local Area Engineering Organization Works Division-01, Bettiah, West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gautam Kejriwal, Adv. Mr. Suresh Kumar, Adv. Mr. Arvind Kumar, Adv. Mr. Priti Choudhary, Adv.
For the Respondent/s	:	Mr. Government Pleader (20) Mr. Mrigendra Kumar, AC to GP 10

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

8 19-09-2025

I.A. No. 01 of 2025

Interlocutory application is allowed.

2. Registry is directed to make the necessary
amendments in the prayer portion of the present writ petition.



3. Heard learned counsel for the parties.

4. The present writ petition has been filed for the following relief(s):-

“i) To issue an appropriate writ, order or direction in the nature of MANDAMUS commanding the respondents to prepare final bill of the work done by the petitioner pursuant to Agreement no. 87F2 2013-14 and to make payment of Rs.80,58,605/- (approx).

ii) To issue an appropriate direction(s) to the respondents to refund amount of security deposits and amount deducted in the name of non-grant of extension of time.

iii) Any other relief or reliefs for which the petitioner is entitled to under the law and in the facts and circumstances of the case.

5. The following prayer has been added by way of I.A. No. 01 of 2025.

iv) For issuance of a writ in the nature of certiorari for quashing of letter no 234 dated 23.01.2023 issued under the signature of the Executive Engineer, Local Area Engineering Organisation Works Division-01, Bettiah, West Champaran (respondent no. 5) whereby and whereunder agreement no. 87F2/2013-14 has been



rescind with immediate effect and forfeited the security deposits and recommendation has been made to keep the registration of the petitioner in the black list to the Senior officials on grounds that no prior Show Cause notice was served upon the petitioner and even the letter rescinding agreement was also not served to the petitioner.

v) For issuance of an appropriate direction to carry out final measurement of the work done by the petitioner.”

6. Learned counsel appearing on behalf of the petitioner has assailed the impugned order rescinding the contract on the following reasons, (1) that no prior show cause notice has been issued to the petitioner before the decision of rescinding the contract dated 23.01.2023 has been passed. (2) The authorities while passing the order dated 23.01.2023 have not taken into consideration the work done by the petitioner. Learned counsel submits that as a matter of fact as per the terms and conditions of the contract the petitioner was obligated to construct two buildings and the petitioner has already completed one building and handed over the same to the authority. That in respect of the other building, 95% of the work has already been completed. That the authorities have been paying the amounts



due to the petitioner till 14.12.2022 (Annexure P/7). That the petitioner after due negotiations with the authorities has given an undertaking that he is willing to complete the balance work, however without giving any opportunity to the petitioner the authorities have passed the order dated 23.01.2023 impugned in the present writ petition (Annexure P/11). Learned counsel submits that the cancellation of the agreement without putting the petitioner on prior show cause is bad in law and contrary to the principle of natural justice and equity. Learned counsel further submits that the authorities has not paid the amounts due to the petitioner for the work already done and have not verified the work for making the payments. Learned counsel has relied on the Judgments of this Hon'ble Court in the case of *M/S Dirghayu Mahavir Diagnostic through its Managing Director Dr. Abhishek Tiwary versus The State of Bihar and Ors.* reported in *(2015) 2 PLJR 567* and Judgment of the Hon'ble Supreme Court in the case of *State of Uttar Pradesh Versus Sudhir Kumar Singh and Ors.* reported in *2021 (19) SCC 706* in support of his case. Further it is stated by the learned counsel that the petitioner, if given a chance, will complete the work without seeking any escalation of the price. Learned counsel has therefore prayed this Hon'ble Court to allow the present writ



petition, consequently set aside the impugned order and direct the authorities to permit the petitioner to complete the balance work and also make the due payments for the work which has already been completed.

7. Per contra, learned counsel appearing on behalf of respondents has opposed the very maintainability of the present writ petition. Learned counsel has stated that though the agreement was entered way back in the year 2013 and the petitioner was obligated to complete the work within a period of one year, the petitioner till date has not completed the work. Learned counsel has stated that the authorities have passed a reasoned order giving reasons for cancelling the agreement vide impugned order dated 23.01.2023. Further it is stated by the counsel that prior to the issuance of the termination order, the petitioner was put on number of notices but the petitioner for reasons best known to him has not completed the work within the time. Further it is stated that though the petitioner has given an undertaking dated 14.12.2022 (Annexure P/7) to complete the balance work in a time bound manner but after a lapse of almost one month also, the petitioner did not take any steps to start the work, therefore, the authorities left with no other option had to cancel the agreement vide impugned order dated



23.01.2023.

8. When queried by this Court as to whether any show cause notice has been issued to the petitioner prior to the cancellation of the agreement, the learned counsel appearing on behalf of the respondents has submitted that the counter affidavit does not reflect that any show cause notice was issued to the petitioner.

9. Having regard to the same without going into the merits or demerits of the case, this Court is of the opinion that the ends of Justice would be met if the impugned order of cancellation dated 23.01.2023 is set aside and the matter remanded back to the authority for considering the matter afresh. Accordingly, the impugned order dated 23.01.2023 is set aside and the matter is remitted back to the Executive Engineer for reconsidering the entire issue afresh duly taking into account the fact that the petitioner has completed almost 95% of the work and only balance 5% of the work remain to be completed. The authority shall take necessary measurements of the work done by the petitioner and in case the contention of the petitioner that only balance 5% of the work remains to be completed, he shall take a decision as to whether to continue the petitioner for completing the balance 5% work or not. In case



any decision is taken to rescind the contract, the petitioner shall be given a show cause notice seeking his explanation and thereafter a reasoned order will be passed for terminating the contract. The authorities shall also take necessary steps for payment of the amounts due to the petitioner for the work already been done.

10. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Bhardwaj/-

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