

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.628 of 2025
In
Civil Writ Jurisdiction Case No.3351 of 2025

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Director, Directorate of Purchase, Stores and Material Management, Water Resources Department, Government of Bihar, Patna.
4. The Engineer-in-Chief Flood Control and Drainage, Water Resources Department, Government of Bihar, Patna
5. The Chief Engineer, Flood Control and Water Drainage, Water Resources Department, Muzaffarpur.
6. The Executive Engineer, Flood Control Division, Motihari.
7. The Executive Engineer, Drainage, Division, Bettiah
8. The Executive Engineer, Sikrahna Embankment Division, Motihari.
9. The Executive Engineer, Drainage Division, Motihari
10. The Executive Engineer, Flood Control and Drainage Division, Lalganj, Hazipur.
11. The Executive Engineer, Flood Control Division, Muzaffarpur
12. The Executive Engineer, Flood Control Division, Bagha, West Champaran
13. The Executive Engineer, Drainage Division, Sitamarhi
14. The Executive Engineer, Bagmati Division, Sheohar.
15. The Executive Engineer, Ganga Sone Flood Protection Division, Digha.
16. The Executive Engineer, Bagmati Division, Sitamarhi
17. The Executive Engineer, Bagmati Division, Runnisaipur

... .. Appellant/s

Versus

1. Himtech Sales Private Limited, a company under the provisions of the Companies Act, 2013, having its registered office at 7 Babulal Lane, second Floor, Kolkata 700001 and its Unit at A6/A8 (part) Phase-V Adityapur, Gamharia, Jamshedpur, District Seraikela, Kharsawan Jharkhand through its authorized representative namely Atanu Mondal, Male, aged about 40 years, Sn of Late Sri Kali Pada Mondal resident of VTC Sunia, P.S. Goghat, District- Hooghly, West Bengal.
2. The Director, Himtech Sales Private Limited Namely Manager Singh, male aged about 73 years, resident of New Colony Nirmal Path Road, No. 3 Panchayat Chhota Gamaharia Police Station Gamaharia, District- Seraikela Kharsawan, Jharkhand

... .. Respondent/s



Appearance :

For the Appellant/s : Mr Anjani Kumar, AAG-4
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-01-2026

This Letters Patent Appeal has been filed by the State of Bihar and others challenging the order dated 16.05.2025 passed in CWJC No. 3351 of 2025.

The writ petition was filed by the respondent Himtech Sales Private Limited and another with the following prayer(s):-

- “a. A writ of and/or in the nature of Mandamus be issued directing Respondents, its men, agents and assigns to release the outstanding payments of Rs. 6,60,47,000/- along with interest @12% per year in respect of cement bags supplied by the Petitioner No. 1 forthwith;*
- b. A writ of or in the nature of Mandamus commanding the respondents and each one of them, their men, agents and assigns to rescind, revoke and recall the letters dated 23rd June 2023, 7th July 2023 and 20th August 2024;*
- c. A writ of and/or in the nature of Mandamus do issue restraining the respondents from acting under and from giving any further and/or any effect to the letters dated 23rd June 2023, 7th July 2023 and 20th August 2024;*



- d. A writ of and/or in the nature of Prohibition do issue prohibiting the respondents from proceeding with the letters dated 23rd June 2023, 7th July 2023 and 20th August 2024;*
- e. Appropriate Writs and/or orders and/or direction do issue as would afford complete relief to the Petitioners.*
- f. Such further order and/or orders as the Hon'ble Court may deem fit and proper.”*

2. It seems that counter affidavit was filed by the Respondent Nos. 1 to 6 wherein the following stand has been taken:-

- “11. That vide Letter No. 637 dated 29.05.2023 the Executive Engineer, Ganga Sone Flood Protection Division Digha Patna directed all the consignee division to submit the 20 new EC bags from the supplied new EC bags of the Petitioner before the authorized representative namely Smt Neelam Kumari JE after making selection so that test of the supplied new EC bags may be done.*
- 12. That the Petitioner Company has supplied the total quantity of empty cements bags to the concerned consignee division but the said supplied empty cements bags was not as per specification mentioned in the purchase order.*
- 13. That the department of deponent has tested the supplied empty cements bags of the Petitioner in the departmental Lab after taking sample from the supplied empty cements bags and it was found that the supplied new empty cements bags was not supplied as per specifications mentioned in the purchase order.*



14. *That vide Letter No. 477 dated 23.06.2023 the department of deponent communicated to the Petitioner that the supplies made by the Petitioner was not as per specification mentioned in the purchase order and not as per schedule of supply.*
15. *That vide Letter No. 512 dated 07.07.2023 the Director, Purchase, Store and Materials Directorate Water Resources Department Patna directed the consignee division of the department not to consume/use the bags supplied by the Petitioner as the supplied the new empty cement bags are not as per specification mentioned in the purchase order.*
16. *That vide Letter No. 531 dated 19.07.2023 the Director, Purchase, Store and Materials Directorate Water Resources Department Patna directed the Petitioner to take back the supplied empty cement bags as the same is not as per specifications mentioned the purchase order.*
17. *That vide reminders contained in Letter No. 538 dated 20.07.2023 and Letter No. 562 dated 01.08.2023 the Director, Purchase, Store and Materials Directorate Water Resources Department Patna directed the Petitioner to take back the new empty cements bags as the same was not as per specification mentioned in the purchase order.*
18. *That on the request of the Petitioner vide letter No. 629 dated 30th August 2023 the Director, Purchase, Store and Materials Directorate Water Resources Department Patna directed the Executive Engineer Ganga Sone Flood Protection Division, Digha Patna to conduct a retest of supplied new empty cements bags in any of*



laboratories i.e. CIPET Hajipur, Jadavpur University Kolkata, or CWPRS Pune and to make available the test report to the undersigned and consignee Executive Engineers. In the said letter it was also mentioned the cost of inspection/test will be borne by the Petitioner as per terms and condition of the purchase order.

- 19. That vide Letter No.716 dated 16.10.2023 the Director, Purchase, Stores and Material Management, Water Resources Department Patna directed the Petitioner to deposit the charges before the undersigned for conducting the Test at CWPRS Pune. But the Petitioner did not deposit the said charges despite request which shows that the Petitioner was himself not interested for retest of the supplied new empty cement bags.*
- 21. That on account of request of the Petitioner to retest, the department of deponent has taken the decision to recheck/retest of quality of E.C bags supplied by Petitioner.*
- 24. That again vide Letter No. 310 dated 20.05.2024 the Director, Purchase, Store and Materials Directorate Water Resources Department Patna has requested the Petitioner to be present at the consignee division for samples collection of new EC bags so that the test may be done. He has also been communicated that if he will be not present at the time of collection no claims will be entertained. Despite categorical request the Petitioner did not appear before the concerned authorities of the department of deponent for samples collection.*
- 27. That thereafter in the presence of officers of the department of deponent the samples of*



supplied new empty cement bags of the Petitioner has been collected from the concerned consignee division. Vide Letter No. 706 dated 13.06.2024 the Executive Engineer, Ganga Sone Flood Protection Division Digha Patna has sent the collected samples of new EC bags of the Petitioner to the Executive Engineer, Research and Training Division -02 Khagaul Patna for testing.

- 28. That after the collection of sample again vide Letter No 766 date 12.06.2024 the Superintendent Engineer Research and training circle, Khagaul, Patna has requested to Petitioner to be present at the time of testing of collected samples of new EC bags so that the testing of sample can be done in his presence. He has also been communicated that if he dehbratly not present at the time of testing of sample. He himself will be responsible for her presence.*
- 29. That the collected samples of the supplied new EC bags had been tested in the departmental Lab, Khagaul and it was found that the supplied new empty cements bags supplied by the Petitioner are not as per specification mentioned in the purchase orders.*
- 30. That vides Letter No. 465 dated 22.07.2024 the Director, Purchase, Stores and Material Management, Water Resources Department Patna rejected the supplied empty cement bags of the Petitioner and directed the Petitioner to take back the supplied EC bags from the consignee division as the supplied bags are not as per specification mentioned in the purchase order. It has also been communicated that several times*



request has been made to the Petitioner to be present at the time of samples collection and for ensuring their presence at the time of testing at departmental Lab. but he neither turned up at the time of sample collection nor turned up at the time of testing of samples in spite of prior communication to the Petitioner well in advance. Finally the test has been made the departmental Lab Khagaul after taking samples from the concerned consignee division and it was found that the supplied new EC bags are not as per specification mentioned in the purchase order.”

3. Rejoinder to the said counter affidavit was filed by the petitioners.

4. In the impugned order, the learned Single Judge has observed as follows:-

“3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has supplied the requisite bags as per the work order in and around 31.05.2023. That the authorities have issued notice dated 23.06.2023 stating that the as per the report of the lab, bags supplied by the petitioner are not of the required specifications. That, subsequently vide letter dated 22.07.2024, the petitioner was asked to take back the bags supplied by him. Learned counsel for the petitioner has stated that nearly 200 daily workers are dependent upon the petitioner for their livelihood and approximately an amount of Rs.6,60,47,000/- is due from the respondents for the bags supplied but till date they have not



paid any bills. Learned counsel has stated that unless and until some amounts are paid, the petitioner would not be in a position to maintain the workers or keep the unit in the running condition.

4. Having regard to the same, the respondents authorities are directed to immediately release an amount of Rs.1,00,00,000/- to the petitioner herein positively within ten days from today.

5. It is made clear that the amount paid will be the subject to the final result of the present writ petition. In case any adverse orders are passed against the petitioner, the petitioner would be liable to refund the same.”

5. Learned counsel for the State submits that there was every reason on the part of the State to pass the impugned order which was challenged by the respondents in the writ petition and therefore, the learned Single Judge was not justified in passing the order directing the appellants to immediately release an amount of Rs. 1,00,00,000/- (one crore) to the respondent within ten days from the passing of the order. It is further submitted that such an order is not sustainable in the eyes of law in view of the stand taken by the appellants in the counter affidavit.

6. When we made a query to the learned counsel for the State as to whether any contempt proceeding has been initiated by the respondents in terms of Paragraph No. 4 of the



impugned order, the answer was in negative.

7. In view of such submission, when the matter is *sub judice* and no contempt proceeding has yet been instituted and the pleadings are complete, we request the learned Single Judge to hear the respective parties and finally dispose of the matter within a period of four weeks from today.

It is made clear that we have not expressed any opinion on the merits of the case.

8. Accordingly, the Letters Patent Appeal is disposed of.

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

(Sangam Kumar Sahoo, CJ)

(Mohit Kumar Shah, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	20.01.2026
Transmission Date	

