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24/11/11

IN THE HIGH COURT OF JUDICATURE AT PATNA
(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2012 (Contempt)

(Arising out of order dated 9.9.2009
Passed in C.W.J.C. No. 11712 of 2009)

M/S Puja Construction Petitioner.

Versus

The State of Bihar and anotherContemnors/O.P.

Sub: Contempt Matter.

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Through:-
Pravos works
Advocate for Petri
Am - 2011/11

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2012 (Contempt)

(Arising out of order dated 9.9.2009
Passed in CWJC No. 11712 of 2009)

In the matter of an
application Under Section
11 and 12 of the Court of
the Contempt Act read
with Article 215 of the
Constitution of India;

And

In the matter of

M/S Puja Construction, Kayasth Tola, Saharsa through its
Proprietor namely Diwakar Singh, son of Vijay Kumar
Singh.

..... Petitioner.

VERSUS

1. The State of Bihar through the Principal Secretary, Road
Construction Department/Public Works Department,
Bihar, Patna, namely

2. The Chief Engineer, National Highway, Department of Road Construction, Bihar, Patna, namely
3. The Superintending Engineer, National Highway Circle, Road Construction Department, Purnea, namely
4. The Executive Engineer, National Highway Division, Road Construction Department, Madhepura, namely
..... Contemnors/Opposite Parties.

To,

The **Hon'ble Ms. Justice Rekha M. Doshit**, the Hon'ble Chief Justice of the High Court of Judicature at Patna and Her Companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above-named;

Most Respectfully Sheweth:-

1. That this application is being filed for initiation of a proceeding of civil contempt against the Contemnors/Opposite Parties for their willful disobedience and deliberate disrespect to the order dated 9.9.2009 passed in CWJC No. 11712/2009 (M/S Puja Construction Vs The State of Bihar and

others) by Hon'ble Mr. Justice Samrendra Pratap Singh.

2. That the petitioner filed aforesaid writ application for direction to the Respondents concerned to make payment of contractual dues of Rs.6,62,646/- alongwith penal interest to the petitioner as the petitioner after completion of work of repair of N.H. 106 between 0 to 19 K.M. in 2006-07 has submitted final bill of Rs.7,37,646/- out of which a sum of Rs.75,000/- only has although been paid to the petitioner.
3. That after hearing the parties this Hon'ble Court vide order dated 9.9.2009 dispose of the aforesaid writ petition with a direction and observation to file a representation before the Chief Engineer, N.H. Department of Road Construction, Bihar and the Respondent concerned was to scrutinize the same in accordance with law and was to pay the admitted dues within the period of three months from the date of filing of the presentation.

A Photo copy of order dated 9.9.2009 is annexed herewith and marked as Annexure-1 to this petition.

4. That the petitioner after filing his representation with a copy of the order of this Hon'ble Court on 30.01.2010 has been continuously pursuing his grievance before the Contemnors/Opposite Parties but till date of the order of this Hon'ble Court has not been complied with and in lack of money entire business of the petitioner (M/S Puja Construction) has been stopped.

A Photo copy of the representation dated 30.01.2010 is annexed herewith and marked as Annexure-2 to this petition.

5. That memo No.1298 dated 17.11.2011 sent by the Executive Engineer, N.H. Division, Madhepura to

the Chief Engineer, N.H., Road Construction Department, Bihar, Patna clearly indicates that the claim of the petitioner is admitted on the basis of recommendation of the liability committee.

*A photo copy of letter dated
17/11/11 is annexed as Annex-3*

6. That it is humbly submitted that the Contemnors/ Opposite Parties have shown their willful disobedience and deliberate disrespect to the order dated 9.9.2009 for which they are liable to be punished for committing contempt of this Hon'ble Court.

7. That the petitioner has not moved before this Hon'ble Court earlier in the present matter.

It is, therefore, prayed that **Your Lordships** may graciously be pleased to admit this application, issue show cause notice against the Contemnors/ Opposite Parties and after hearing the parties be pleased to punish the Contemnor/Opposite Parties for their willful disobedience and deliberate disrespect to the

order dated 9.9.2009 passed by
Hon'ble Mr. Justice Samrendra
Pratap Singh in CWJC No.
11712/2009 (M/S Puja Construction
Vs The State of Bihar and others).

And/or

Pass such other order or orders as
Your Lordships may deem fit and
proper in the facts and
circumstances of this case.

And for this, the petitioner shall ever pray.

AFFIDAVIT

I, Diwakar Singh, aged about 35 years, son of Vijay Kumar Singh, resident of Kayasth Tola, P.S. + District-Suharsa; do hereby solemnly affirm and state as follows:

1. That I am Proprietor of M/S Puja Construction (Petitioner) and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this contempt application have been read over by me which I have fully understood and the statements made therein are true to my knowledge and belief.
3. That the Annexures are true/typed copies of their respective originals.

Diwakar Singh.

An-1

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IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.11712 of 2009
M/S PUJA CONSTRUCTION
Versus
THE STATE OF BIHAR & ORS

2 09.09.2009.

Heard learned counsel for the parties.

The petitioner states that tender was invited for completion of repair work of N.H. 106 between 10 to 19 kilometers in the year 2006-07. On 28.2.2006 tender was opened and petitioner was awarded contract.

The petitioner states that he completed the work and submitted a final bill of Rs.7,37,646/- out of which a sum of Rs. 75,000/- was paid to him and for remaining amount he has represented to the authorities on different dates including 25.4.2008 & 15.5.2008.

After hearing the counsel for the parties, this court directs that if the petitioner files a representation before the Chief Engineer, National Highway Department, Road construction, Bihar, respondent no.2 detailing the works done and amount due to him, the latter would have the same scrutinized in accordance with law within a period of three months from the date of filing of the representation along with a copy of this order and would pay the admitted dues of the petitioner.

The writ petition stands disposed of with aforesaid observations and directions.

ashi.

Sd/- (Samarendra Pratap Singh, J).

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BIHAR JUDICIAL
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19.9.2009
BIHAR
372401
INDIA
Reg. No. 108/09

MENT OF POST
CIRCLE
URDTEE

3198 DT. 15/12/2008

Vinod Kumar

CERTIFIED TO BE TRUE PHOTO COPY
For Joint Registrar (J)
Court

8/10/09

Am. 2
9
A-2
Pramod Mishra

Advocate
Patna High Court
Advocate's Association, Near
King's Chamber, Library Corner

Office :- Ph. : 0612-2504346
Chamber No.-150, (3rd Floor)
Bihar Bar Council Bhawan
Eastern Gate,
High Court Campus, Patna

Residence :- Ph. : 0612-2592429
Flat No.-B-206, Sitakunj Apartment,
Ved Nagar, (Behind Singh
Petrol Pump) Rukanpura, Bailey
Road, Patna

Ref.

Date. 30/01/10.

To
The Chief Engineer,
National Highway
Department of Road Construction, Bihar, Patna.

Sub. :- Order Dated - 9/9/2009 passed in C.W.J.C. No.
11722/2009 (M/s Puja Construction Vs the
State of Bihar & ors)

Sir,

Vide the aforesaid order a direction has been
given to you to make payment of due amount to
the writ petitioner, who has completed the repair work
of N.H. - 106 between 0 to 10 KM in the year 2006
- 07.

The photo copy of the writ petition is
attached herewith which shall disclose every-
thing with regard to the work done by the writ
petitioner. It would also be evident that Rs. 75,000/=
was paid out of Rs. 7,37,646/= and remaining amount
is due for payment of which a direction has been
given by the Hon'ble Court.

It is therefore, requested you to look-
into the matter and pay the due amount
to the writ petitioner in the light of afore-
said order passed by Hon'ble Patna High Court.

YOURS'

ENCL *i) PHOTO COPY OF
ORDER DTD. 9/9/2009

ii) PHOTO COPY OF
THE WRIT PETITION.

(PRAMOD MISHRA)
"ADVOCATE"

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भारतीय डाक
INDIA POST

PATNA SPC <800001>
SP EPO50794878IN
Counter No: 2, OP-Code: 02027
IN TO THE C.E.M.D OF ROAD CON
Patna PIN: 800
From: PRANOD KISHORA . PATNA
Wt: 117grams
Amt: 23.00 30/01/2010 16:00
Taxes: Rs. 3.00 <<Have a nice day>>

A-3

Annex 3

**कार्यपालक अभियंता का कार्यालय,
राष्ट्रीय उच्च पथ प्रमंडल, मधेपुरा।**

पत्रांक - 1298 (2980)

मधेपुरा/दिनांक:- 17/11/2011

प्रेषक,

कार्यपालक अभियंता
राष्ट्रीय उच्च पथ प्रमंडल,
मधेपुरा।

सेवा में,

मुख्य अभियंता,
राष्ट्रीय उच्च पथ उपभाग,
पथ निर्माण विभाग,
बिहार, पटना।

विषय:- सी० डब्लू० जे० सी० सं०-11712/2009 पूजा कन्सट्रक्शन बनाम राज्य सरकार एवं अन्य मागले में दायित्व जॉय समिति के अनुशंसा के आलोक में सव्देक के भुगतान हेतु निधि आवंटित करने के संबंध में।

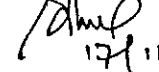
प्रसंग:- अभियंता प्रमुख, पथ निर्माण विभाग, बिहार, पटना के डाप सं०-4981(E) पटना दिनांक 03.12.2010

महाशय

उपर्युक्त विषयक प्रसंगधीन पत्र के आलोक में कहना है कि दायित्व एवं जॉय समिति के अनुशंसा के आलोक में सव्देक पूजा कन्सट्रक्शन को भुगतान हेतु गोर-योजना 3054 सड़क एवं पुल मद में ₹ 6,62,046.00 (छः लाख बासठ हजार छियालीस रुपये) एवं 9 प्रतिशत एजेन्सी चार्ज ₹ 59,584.00 (उन्सठ हजार पाँच सौ चौरासी रुपये) अर्थात् कुल ₹ 7,21,630.00 (सात लाख एकीस हजार छः सौ तीस रुपये) मात्र का निधि आवंटित करने की कृपा की जाय, ताकि सव्देक को भुगतान किया जा सके। साथ-ही मनीय उच्च न्यायालय के आदेश का पालन हो सके।

अनु०:- यथोक्त।

विश्वसिमाजन



कार्यपालक अभियंता,
राष्ट्रीय उच्च पथ प्रमंडल, मधेपुरा।

ज्ञापक- 1298

मधेपुरा/दिनांक:- 17/11/2011

प्रतिलिपि : अधीक्षण अभियंता, रा० उ० पथ अंचल, पूर्णियों को सूचना एवं आवश्यक कार्रवाई हेतु समर्पित।

कार्यपालक अभियंता

राष्ट्रीय उच्च पथ प्रमंडल, मधेपुरा

