



IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.1280 of 2016

2019:JHHC:39994

1. M/s Vishwesaraiya Construction, a Fully Engineering Organization, having its office at Housing Colony, P.O. & P.S. Dhanbad, District Dhanbad-826001 (Jharkhand), a partnership Firm represented by one of its Partners, namely, Jeetendra Prasad Singh, son of Sri Bindeshwari Singh, presently residing at Housing Colony, ISH Flat No.65 P.O. & P.S. Dhanbad, District Dhanbad.
2. Jeetendra Prasad Singh, son of Sri Bindeshwari Singh, presently resides at Housing Colony, ISH Flat No.65 P.O. & P.S. Dhanbad, District Dhanbad, one of its partners.

..... Petitioner

Versus

1. The State of Jharkhand.
2. The Principal Secretary, Building Construction Department, Jharkhand, Ranchi, having its office at Project Bhawan, Post office Dhurwa, Police Station Jagarnathpur, District Ranchi.
3. The Engineer-in-chief, Building Construction Department, Jharkhand, Ranchi, having its office at Project Bhawan, Post office Dhurwa, Police Station Jagarnathpur, District Ranchi.
4. The Chief Engineer, Building Construction Department, Jharkhand, Ranchi, having its office at Combined Building, Link Tank Road Road, near Kuntchery, Ranchi, P.O. G.P.O. P.S. Kotwali, District Ranchi.
5. Superintending Engineer, Building Construction Building Circle, Hazaribagh, P.O. & P.S. Hazaribagh, District Hazaribagh.
6. Executive Engineer, Building Construction Department, Building Division, Dhanbad, P.O. & P.S. Dhanbad, District Dhanbad.
7. Principal Secretary, Health Medical Education & Family Welfare Department, having its office at Nepal House, Ranchi, P.O. & P.S. Doranda, District Ranchi.
8. Principal, Patliputra Medical College and Hospital, Dhanbad, P.O. & P.S. Dhanbad, District Dhanbad.

..... Respondents



CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

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For the Petitioner : Mr. Mahesh Tiwari, Advocate
For the Respondents : Mr. Abhay Prakash, AC to AAG

05/Dated 17th June, 2019

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder the petitioners have sought for a direction upon the respondents to make payment of the amount in lieu of the work executed by the petitioners in pursuance to the agreement entered into between the petitioners and the respondent authorities by virtue of agreement No.78F2/2008-09.
2. It is the case of the petitioners that a notice inviting tender has been floated for construction of 100 bedded girls hostel and also 100 bedded boys hostel in Patliputra Medical College and Hospital at Dhanbad.
3. The petitioners have been declared successful and entered into an agreement being Agreement No.78F2/2008-09 as per which the work was to be started on 31.07.2008 and was to be completed till 30.01.2010.
4. The petitioners have been given with the work order vide letter No.78F2 dated 31.07.2008 and thereafter they have started the execution of the work upon which up to 9th running bill, the money has been disbursed in their favour and for 10th and final bill, money has not been paid for which this writ petition has been filed inter alia making pleadings in the writ petition that there is no latches on the part of the petitioners rather the work has been completed up to the 9th running bill without any hindrance and so far as the work pertaining to 10th running bill and final bill are concerned, it is the respondents who have committed latches by not disbursing the amount in time.
5. Counter affidavit has been filed by the respondent-State of Jharkhand inter alia stand has been taken therein that in pursuance to the condition of agreement the work was to be completed up to



30.01.2010 but it has been executed much beyond that period. 2019:JHHC:39994

6. Rejoinder affidavit has been filed by the petitioner stating therein that there is no latches on the part of the petitioners rather it is the latches committed on the part of the State-authority. The rest of the amount of 10th and final bill have not been paid and as such the submission has been made by the learned counsel for the petitioner to issue appropriate direction upon the State respondent to release the amount which the petitioner is legally entitled to after execution of the aforesaid work.
7. Having heard the learned counsel for the parties and looking to the factual aspect wherefrom it is evident that the matter pertains to non-statutory contract pertaining to money claim.
8. It is the settled position of law that in the matter of money claim, if the amount is admitted on the part of the respondents, the direction could be passed by the writ Court sitting under Article 226 of the Constitution of India but in a case where the claim has been disputed and in such nature of dispute, adjudication is required to be made by casting liability by giving declaration with respect to the entitlement which is not possible under Article 226 of the Constitution of India, since the same requires appreciation of evidence to be led by the parties.
9. Coming to the fact of this case since the claim of the petitioner pertaining to 10th and final bill is in dispute as would be evident from respective paragraphs in the counter affidavit, therefore, this Court refrains itself in passing a positive direction in favour of the petitioners.
10. In view thereof, the writ petition fails and is dismissed.
11. However, it is open for the petitioners to ventilate the alternative forum for redressal of the grievance, if so wish.

(Sujit Narayan Prasad, J.)