

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 1319 of 2015

M/s Ganesh Ram Dokania through its partner Sanjay Kumar Giri son of Late S.D. Giri resident of 4/A, Sri Sai Astha Apartment, P.O. & P.S. - Bariyatu, Dist. - Ranchi. Petitioner

Versus

1. The State of Jharkhand
 2. The Secretary, Road Construction Department, Govt. of Jharkhand having its office at Project Building, Dhurwa, P.O. & P.S.- Dhurwa, Dist. Ranchi.
 3. Engineer in Chief, Road Construction Department, Govt. of Jharkhand having its office at Project Building, Dhurwa, P.O. & P.S.- Dhurwa, Dist. - Ranchi.
 4. Chief Engineer, Road Construction Department, Govt. of Jharkhand, having its office at Engineer's Hostel No. 2, P.O. & P.S.- Dhurwa, Dist. - Ranchi.
 5. Superintending Engineer, Road Construction Department, Govt. of Jharkhand having its office at P.O., P.S. & Dist.-Dumka.
 6. Executive Engineer, Road Construction Department, Govt. of Jharkhand having its office at P.O., P.S. & Dist.-Dumka.
- Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner: Mr. Gaurav Raj, Advocate
For the State: Mr. Jayant Franklin Toppo, G.A.-V

16 /Dated: 21.04.2026

1. Heard learned counsel for the parties.
2. The petitioner, by instituting this petition, has sought for following reliefs: -

"a. *For the issuance of an appropriate writ/writs, order/orders, direction/directions or writ in nature of certiorari for quashing of the letter dated 20.01.2015 whereby and where under the respondent authorities out of the blue and in a most mechanical manner have issued the said letter under the seal and signature of the Executive Engineer whereby the agreement dated 21.02.2012 and supplementary agreement dated 27.02.2013 has been terminated on the ground that the allotted work was not done within the stipulated time period whereas the petitioner was not in a position to execute the work because of the reason that the revised design and drawing was furnished after a lapse of one year and no time extension what so ever was granted to the present petitioner*

to execute the work moreover, on 27.01.2015 final measurement of the contract work was stated to be done and presence of the petitioner was required for the same.

And/or

- b. For the issuance of an appropriate writ/writs, order/orders, direction/directions or writ in nature of mandamus commanding upon the respondent authorities to take a decision in the matter of foreclosure of contract without liquidated damages and further a direction to complete the final bill in presence of the petitioners' representative and release the payment accordingly.*

And/or

- c. For the issuance of an appropriate writ/writs, order/orders, direction/directions or writ in nature of mandamus commanding upon the respondent authorities to release remaining amount payable to the petitioner (subject to necessary deductions) such as Final Bill, security deposit, price difference, extension of time, Bank Guarantee etc. in terms of Clause 25.2 of the Standard Bid Document.*
- c.1 For issuance of an appropriate writ/writs, order/orders to quash the letter dated 09/04/2015 issued by the Executive Engineer, Road Division, Dumka addressed to the Bank Manager, UCO Bank, Banka, Bihar whereby and where under Bank Guarantee furnished by the petitioner has been invoked by the Respondent authority."*

3. The above reliefs are in the context of the acceptance of the petitioner's tender bid and agreements dated 21.02.2012 and 27.02.2013 for reconstruction/strengthening of the existing two-lane Dumka to Rampurhat Road State Highway No.17 (length 0.00 to 50.40 kms).

4. Basically, by alleging an unreasonable delay and a refusal to complete the works despite several letters and requests, the respondents have terminated the agreements and invoked the bank guarantees furnished by the petitioner. It is this action of the respondents that the petitioner challenges by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. From the pleadings of the parties, including the documents annexed thereto, it is more than obvious that these proceedings are sought to be converted into a regular civil suit or an arbitration claim. From the pleadings and documents on record, it is apparent that the entire proceedings are simmering with disputed questions of fact that cannot be adjudicated under the summary and extraordinary jurisdiction under Article 226 of the Constitution.

6. The vague allegation of unfairness or non-compliance with principles of natural justice is also seriously contested. The respondents have placed on record, along with their voluminous counter affidavit and supplementary affidavits, several letters by which the proposal of the petitioner for change of specifications was turned down, and the petitioner was directed to continue with the works as specified in the agreement and the supplementary agreement.

7. At least *prima facie*, it appears that several opportunities were afforded to the petitioner to complete the work. Therefore, at least *prima facie*, the allegations of failure of natural justice or unfairness cannot be accepted. In any event, even a proper adjudication of these allegations would involve delving into highly disputed factual questions.

8. The record shows that the petitioner sought a change in specification after the contract commenced. These requests of the petitioner were duly considered but ultimately not agreed. This was duly intimated to the petitioner with instructions to resume and continue with the incomplete works as per the specifications provided in the original and supplementary agreements. Still, the petitioner, by insisting that the specifications be changed, failed to resume and continue the works, which were ultimately left incomplete. The termination and invocation of bank guarantees followed.

9. The learned counsel for the petitioner has emphasised a report dated 28.05.2014 submitted by a committee of three Engineers. He submitted that, in terms of this report, this Committee had substantially agreed with the petitioner's contentions and even recommended some changes for a particular stretch of the road project. Based on this report, the learned counsel for the petitioner submitted that the respondents were duty-bound to effect changes in the specifications. In any event, he submitted that no blame could be laid at the petitioner's door, warranting termination and the invocation of the bank guarantee.

10. Mr Jayant Franklin Toppo, learned G.A.-V for the respondents-State, pointed out that even the report of the Committee of Engineers dated 28.05.2014 was duly considered and upon such consideration, the same was rejected. This is evident from the communication dated 11.08.2014 addressed by the Engineer-in-Chief to the Executive Engineer. Further, this was communicated by the Executive Engineer vide letter dated 16.08.2014 to the petitioner with instructions to proceed with the work under the original specifications.

11. This is a case of a non-statutory contract. At least *prima facie*, the allegations of unfairness and failure of natural justice have not been made out. The petition involves seriously disputed questions of fact concerning, *inter alia*, the interpretation of the contractual terms, allegations and counter-allegations regarding the progress or lack of progress at the worksite, the necessity of changes to the prescribed specifications, delay in proceeding with the works, and finally the abandonment of the works.

12. At least *prima facie*, the records show that the petitioner was persistent in not proceeding with the works, thereby leaving the respondents with no option but to terminate the agreements and invoke the bank guarantee. In such circumstances, it would not be appropriate for us to grant the petitioner any relief in this petition.

13. However, we hasten to add that our above observations are only *prima facie*, and they are not intended to resolve the disputes between the parties. The observations were necessary because of the petitioner's insistence on proceeding with this petition and seeking an adjudication from this Court on the disputed issues it raises. The observations are in the context of determining whether the dispute in this petition can be conveniently resolved in this extraordinary and summary jurisdiction under Article 226 of the Constitution.

14. Therefore, if the petitioner does resort to the ordinary civil remedies or to the remedy of arbitration (if available), then these observations need not be taken into consideration while deciding such matters. However, we are satisfied that this is not a fit case where we should exercise our extraordinary and summary jurisdiction under Article 226 of the Constitution of India, adjudicate highly disputed questions of fact, and grant the petitioner the relief prayed for.

15. For all the above reasons, we dismiss this petition, leaving it open to the petitioner, if so advised, to resort to the ordinary legal remedies/arbitration, if available. All contentions of all parties on merits are open to be decided by the appropriate Court/Arbitral Tribunal, should the petitioner choose to avail of such remedies. No costs.

16. The pending Interlocutory Applications, if any, do not survive and are disposed of.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

April 21, 2026

N.A.F.R.

APK/VK

Uploaded on 23.04.2026