

(2022) 06 PAT CK 0046

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7093 Of 2022

Bhagwan Jha

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 27-06-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 06 PAT CK 0046

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Kripa Nand Jha, Arvind Ujjwal

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

(I) For issuance of an appropriate direction, order or writ in the nature of certiorari. quashing the office order as contained in Letter No. 512 as also Letter No. 499 dated 1.3.2022 issued by the District Manager. State Food Corporation. Madhubani by which the genuine claim of petitioner for payment of amount due to price escalation in labour wages, diesel etc. has been rejected.

(ii) For further issuance of an appropriate direction. order or writ in the nature of mandamus commanding the respondents to pay the difference of amount Rs. 6.53,65,777/- due to price escalation in labour wages, diesel etc. enhanced by the respondents during the contract period for the work done by this petitioner under door step delivery system.

(iii) For holding and declaring that the petitioner cannot be put under heavy financial loss without any fault on his part rather the loss caused by him due to decision of price hike in labour wages, diesel etc. taken by the respondents.

Briefly stated the facts of the case is that petitioner was granted work order

under door-step delivery system and labour payment was fixed @ Rs. 23.60/- per quintal loading and unloading. Subsequently, on 31.07.2017, the labour wages were enhanced to Rs. 27.76/- per quintal and thereafter again on 01.10.2018, labour wages were enhanced @ Rs. 29.44/-. The price of fuel/diesel was also increased from Rs. 52 to Rs. 80 per litre and accordingly, petitioner filed application before the District Manager, SFC, Madhubani, to consider and pay the escalated price or to stop taking work from him, however, after expiry of contract period same was extended but petitioner was not paid enhanced amount and as such he approached this Court by filing CWJC No. 5918 of 2021 which was disposed of on 03.02.2022 with a direction to the respondents to consider his claim and pass a reasoned and speaking order and thereafter order dated 01.03.2022 was passed by the District Manager, SFC, Madhubani, which has been challenged in the present writ petition.

In the order as impugned, it has been held that there was a written agreement between petitioner and the respondent-corporation and as per the terms and conditions of the agreement the work was being executed by the petitioner on the specified rate as agreed between the parties and on expiration of contract period, petitioner submitted his bill which was passed by the respondent and petitioner accepted the contract amount and after two years of conclusion of contract and payment made to petitioner, he filed the writ petition being CWJC No. 5918 of 2021 for enhancement of contract amount as per market rate, which is contrary to the terms and conditions of the agreement and tender and accordingly same was rejected.

Petitioner has raised disputed question of law and fact in this writ petition which cannot be adjudicated by this Court under its discretionary jurisdiction under Article 226 of the Constitution of India.

Petitioner has relied upon two judgments rendered by Hon'ble Apex Court in the case of Food Corporation of India Vs. A.M. Ahmed & Co. and Another since reported in (2006) 13 SCC 779 and Tarapore and Company Vs. Cochin Shipyard Ltd. Cochin and Another since reported in (1984) 2 SCC 680. However, in both the cases arbitrator was appointed by the High Court in terms of the tender agreement entered between the parties and the Award passed by the Arbitrators were subject matter before the High Court.

In the present case, petitioner has directly raised the dispute arising between the parties in execution of the contract and has not resorted to dispute redressal mechanism as entered between the parties in the agreement, as such present is not maintainable and is, accordingly, dismissed.

However, dismissal of present writ petition shall not preclude the petitioner to avail the remedy to resolve the dispute as provided in the agreement entered between the parties.

The writ petition is, accordingly, disposed of.