
(2009) 12 JH CK 0082
In the Jharkhand High Court

Chandrawati Devi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0082

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Learned Counsel for the Respondents submits at the outset that though the counter affidavit has been filed indicating that the same has been filed on behalf of the Respondent Nos. 1, 2, 3 and 5 but since the Respondent Nos. 4 and 6 also happen to be Government officers of the concerned Department, the counter affidavit may be treated as filed on behalf of all the Respondents.

2. In compliance with the order dated 09.12.2009, the Chief Engineer, Public Works Division (Roads), Jharkhand, Ranchi (Respondent No. 2), the Executive Engineer, National Highways Division, Barhi Hazaribagh (Respondent No. 3) and the Superintending Engineer, National Highways Division, Barhi, Hazaribagh (Respondent No. 5) are physically present in Court today.

3. Counter affidavits have been filed on their behalf.

4. From the preliminary submissions made by the learned Counsel for the petitioner by reference to the several documents filed as Annexures to the writ application, it appears that in response to the work orders given to him, the petitioner had executed four different works. The details of the works executed, were entered in the Corresponding Measurement Books. The petitioner raised a total bill for the payment of the works executed by him. The then Executive Engineer by virtue of his Certificate (Annexures-6 and 9) had confirmed that from the Measurement Books and other documents and on inspection, it was found that the petitioner did execute the work and he is entitled for payment of

the amounts for the works executed.

5. However, as appearing from the counter affidavit of the Respondents, the amounts have not been paid to the petitioner only on the ground that he had executed the works on the basis of the verbal instructions of the then Superintending Engineer and that before commencement of the work, the Junior Engineer had not obtained confirmation of the verbal orders. This being in purported violation of the Office Circular, issued by the Engineer-in-Chief, Road Construction Department, the petitioner is not entitled for claiming any payment. It is acknowledged, nevertheless, that the works, which the petitioner had executed after obtaining the written orders, have been acknowledged and against, the same, a sum of Rs. 16,250/- was found payable to the petitioner and an assurance has been given to release such payments to the petitioner.

6. As it appears, it is not disputed that the petitioner did execute the works to the satisfaction of the, concerned authorities of the Respondents, which has been confirmed by the then Executive Engineer in his letters (Annexures-6 and 9 respectively). Merely because some lapses has occurred on the part of the Junior Engineer, who had not obtained confirmation of the verbal orders, it cannot be disputed that the petitioner had executed the works and is entitled to the payment for the works executed by him.

7. In the light of the letters of the then Executive Engineer, National Highways Division, Barhi, Hazaribagh (Annexures-6 and 9), the concerned authorities of the Respondents ought to have considered the petitioner's claim in accordance with the demands of equity and natural justice, instead of taking a technical plea to refuse payment to him.

8. In the light of the above facts and circumstances, the Chief Engineer, National Highways Division, Hazaribagh who is presently the controlling authority, shall consider the petitioner's claim in proper perspective by referring to all the materials, which the petitioner produces along with his fresh representation, and take an appropriate decision on the petitioner's claim within a period of three months from the date of receipt of the representation filed by the petitioner. Upon being satisfied that the petitioner is entitled, to any amount, the Chief Engineer shall specify such amount and ensure that the payment thereof is released to the petitioner within one month from the date of decision taken on the petitioner's representation.

9. With these observations, this writ application stands disposed of at the stage of admission.

10. Let a copy of this order be given to the learned Counsel for the Respondents.

11. The personal appearance of the Chief Engineer, Public Works Division (Roads), Jharkhand, Ranchi (Respondent No. 2), the Executive Engineer, National Highways Division, Barhi Hazaribagh (Respondent No. 3) and the Superintending Engineer, National Highways Division, Barhi, Hazaribagh (Respondent No. 5) is

dispensed with.