

(2002) 10 JH CK 0031
In the Jharkhand High Court
Case No : Writ Petition (C) No. 3287 of 2002

Surendra Prasad Singh

APPELLANT

Vs

Executive Engineer National Highway Division No. 2 and
Others

RESPONDENT

Date of Decision : 07-10-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 10 JH CK 0031

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : K.K. Jha "Kamal" and Hardeo Pd. Singh, for the Appellant; B.S. Lall, AAG, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The petitioner, stated to have performed certain work in pursuance of agreement reached between him and the State. He having not paid the admitted dues had to move before this Court in CWJC No. 1845/1996 (R). The said case was allowed to be withdrawn by this Court on 11th October, 1995 to file representation before the respondent No. 2 (Chief Engineer, N.H. Road Division, Patna) for redressal of his grievance.

2. Thereafter the representation of petitioner having not disposed of the petitioner moved in CWJC No. 3780/1997 (R). In the said CWJC No. 3780/1997 (R), a Bench of this Court vide order dated 5th May, 1999 taking into consideration two letters dated 16th September, 1998 and 5th November, 1998 written by the Chief Engineer to the Executive Engineer to take into the matter so that the necessary decision may be taken, did not choose to give any specific finding and disposed of the writ petition with a direction to the respondent No. 2 (Chief Engineer, N./H. Division, Patna) to consider the claim of petitioner and pay admitted dues. However, it was observed that if the respondent fails to pay even the admitted dues the petitioner shall be at liberty to approach the appropriate forum under the agreement or even to Civil Court for recovery of the amount.

The respondent was directed to communicate the decision to petitioner at the earliest. Thereafter no decision having been communicated by the Chief Engineer, N.H. Division, Patna nor any amount having been paid, the present writ petition has been preferred by the petitioner.

3. Mr. K.K. Jha, "Kamal", counsel for the petitioner submitted that in spite of the fact that the Executive Engineer, N.H. Division No. 2, Dhanbad admitted that the petitioner is liable to be paid a sum of Rs. 7,35,102.50/- and made requisition for payment of such dues to the petitioner, no payment has been made.

4. The Counsel for the respondent states and submits that the present writ petition is barred by res judicata, the earlier order having been passed by this Court in the case of petitioner for same relief.

5. Mr. Jha counsel for the petitioner rightly submitted that the earlier direction was given to the Chief Engineer, N.H. Division at Patna. Now after re-organization of the State, the competent authority being the Engineer-in-Chief-Cum-Additional Commissioner-Cum-Special Secretary, PWD (Road), Jharkhand, Ranchi he is to execute the order of this Court by disposal of the petitioner's representation.

G. Having regard to the facts and circumstances, taking into consideration the earlier direction of the Court that the authorities were directed to decide the matter and in view of re-organization of the State, the case is remitted to the Engineer-in-Chief-Cum-Additional Commissioner-Cum-Special Secretary, PWD (Road), Jharkhand, Ranchi with the following observations and directions.

7. The petitioner will file a fresh representation before the Engineer-in-Chief-Cum-Special Secretary, PWD (Road), Jharkhand, Ranchi giving therein the details of work performed in pursuance of one or other agreement and enclosing the copy of letters in his support. The Engineer-in-Chief, (Road), Jharkhand, Ranchi in its turn will enquire the matter from the Executive Engineer, N.H. Division, No. 2, Dhanbad and/or other officers relating to the work performed by petitioner and decide the claim by a reasoned order within three months from the date of receipt of representation.

8. If any amount is found payable be paid within the aforesaid period of three months. On the other hand if any amount is disputed they will forward the ground to the petitioner for which the petitioner may move before an appropriate forum as per the contract and/or a civil Court of competent jurisdiction.

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