

**(2011) 05 PAT CK 0100**

**In the Patna High Court**

**Case No :** Letters Patent Appeal No. 638 of 2007

The State of Bihar and Others

APPELLANT

Vs

Chhote Lal Rai

RESPONDENT

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**Date of Decision :** 05-05-2011

**Acts Referred:**

**Citation :** (2011) 05 PAT CK 0100

**Hon'ble Judges :** T. Meena Kumari, J;Akhilesh Chandra, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## **Judgement**

T. Meena Kumari and Akhilesh Chandra, JJ.—Heard learned Counsel for the Appellants and learned Counsel for the Respondent.

2. The present Letters Patent Appeal has been filed against the order of the Learned Single Judge passed in C.W.J.C. No. 7351/2004 dated 22.03.2007 whereby the learned Single Judge has been pleased to direct the Chief Engineer, Rural Engineer Organization to pay the due amount of Rs. 74,393/- with interest to the Respondent at the current bank rate within two weeks from the date of receipt/communication of this order but the Appellants have not paid the said amount to the Respondent.

3. The fact of this case is that the Respondent entered into an agreement in the year 1998-99 with the Executive Engineer, Rural Engineering Organization, Works Division, Patna for the repair work in part to the length of 2nd Km. i.e. 700"-1400" of Lodipur - Sadisopur Road for the worth of Rs. 1,05,363. Accordingly he has completed the work but the bill for the amount of 74,393/- submitted by him was not paid.

4. Considering the measurement of work done by the contractor, the Junior Engineer entered it in the measurement book on 31.03.1999 which was checked by Assistant Engineer on 20.03.2000 who reported that the contractor has completed the contractual work in time. But, in spite of the said report, the Chief

Engineer, Rural Engineering Organization, Patna by letter No. 3501 dated 31.08.2005 addressed to the Executive Engineer, Rural Engineering Organization, Works Division, Patna has disputed the claim, which was the subject matter of the writ petition.

5. The learned Single Judge has observed that tender was allotted to the Respondent without following any administrative approval. However the learned Single Judge after considering the matter has directed the Respondents/Appellants to make payment of the amount for the work done by him with interest .

6. It is contended by learned Counsel for Appellants that as the prescribed procedure has to be followed in allotment of the work and the tender was allotted to the Respondent without any administrative approval, the Respondent could not be paid the aforesaid amount, in view of the fact that liability committee has submitted its report adversely. A counter affidavit has been filed on behalf of the Respondent stating therein that he is entitled for payment of the amount as the Petitioner Respondent herein has completed the work without any fault.

7. The Petitioner-Respondent herein cannot be made liable for any dereliction of duty by independent consent on the ground of fault on the part of the Appellants.

8. We are of the opinion that Petitioner-Respondent herein cannot be made liable for stopping the work done by him and therefore it is for the department to take disciplinary action against such officers who is responsible , if they so desire in accordance with law. However it cannot be a ground for non-payment of the bill.

9. Accordingly, we find no reason to interfere with the order of learned Single Judge.

10. Accordingly this L.P.A. stands dismissed, and consequently the stay petition also stands dismissed.