

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2124 of 2021

Anshila Services Pvt. Ltd. at present Qr. No. 236A, Road No. 3B, New Patliputra Colony, P.S.-Patliputra, District-Patna having its registered office at 501, Pratap Palace, Krishi Nagar, A.G. Colony, P.S.-Shastri Nagar, District-Patna through its Director namely Rajeev Ranjan, S/o Sri Ramanuj Singh, R/o Village-Thakuri, P.S.-Paliganj, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development and Housing, Government of Bihar, Patna.
2. The Principal Secretary, Department of Urban Development and Housing, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. Nagar Parishad, Masaurhi, Patna through its Executive officer.
5. The Executive Officer, Nagar Parishad, Masaurhi, Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar, Adv.

For the Respondent/s : Mr. Rajiv Roy GP-1

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 28-01-2022

This matter has been taken up for hearing online because of *COVID-19* pandemic restrictions.

2. The petitioner claims to be a Private Limited Company and is seeking this Court's intervention in exercise of power under Article 226 of the Constitution of India to command the respondent- *Nagar Parishad, Masaurhi* to fulfill its contractual obligation arising out of a work order issued by the said *Nagar*



Parisad dated 16.05.2018 (Annexure-2) by directing them to pay to the petitioner the admitted dues against supply of portable toilet single seater with bio- digester and mobile toilet 06 (six) seater with bio- digester and to accept remaining items in terms of the aforesaid work order dated 16.05.2018.

3. We have heard learned counsel for the petitioner and learned counsel representing *Nagar Parishad, Masaurhi*. Learned counsel for the State of Bihar is also present.

4. A counter affidavit has been filed on behalf of *Nagar Parishad*, respondent Nos. 4 and 5, to which the petitioner has filed a rejoinder affidavit.

5. Briefly narrated, the facts of the case are that pursuant to a notice inviting tender for supply of the aforesaid items issued by *Nagar Parishad*, the petitioner had submitted its bid. It having been found to be the lowest-bidder, work order was issued on 16.05.2018, requiring the petitioner to supply the items. It is to be noted that it was specifically mentioned in Clause 12 of the notice inviting tender that the articles must be supplied within 30 days from the date of issuance of the work order. Clause 2 of the work order also specifically mentioned that the said articles must be supplied within 30 days. Clause 6 of the work order prescribed that payments against supply of



the articles shall be made after completion of the supplies and submission of bills. The number of articles required to be supplied were mentioned in the work order, according to which 70 portable toilet single seater with bio- digester and five mobile toilet 06 (Six) seater with bio- digester were required to be supplied within 30 days.

6. This is an admitted fact that the petitioner did not supply those articles within the period prescribed in the said work order. It is also not in dispute that till date the petitioner has not made available the entire supply to *Nagar Parishad*. It is the petitioner's own case that out of 70 portable toilet single seater, the petitioner has supplied 34 and against five mobile toilet 06 (Six) seater with bio- digester, the petitioner has supplied two.

7. It further appears from the pleadings and Annexures on record that as the petitioner had failed to supply the articles within the stipulated time, reminders were sent to its Managing Director on 31.08.2018 and 22.10.2018 for supply. In both the communications, it was mentioned that despite stipulated period of 30 days for supply of the articles, the petitioner had failed to perform its obligation.

8. It is in the aforesaid background the petitioner is



seeking a direction from this Court to pay to the petitioner the bills submitted against supply of the articles in question and a direction to the *Nagar Parishad* to accept the remaining items.

9. In the counter affidavit filed on behalf of the Nagar Parishad, the petitioner's claim has been disputed with reference to Clause 12 of the notice inviting tender (N.I.T.). It has been asserted that the petitioner itself violated the terms and conditions of the N.I.T. It has further been stated in the counter affidavit that none of the articles supplied by the petitioner had been made functional till date. Further on the ground that the petitioner failed to supply the articles which were subject matter of the N.I.T. within the stipulated time, the respondents have disputed the petitioner's claim.

10. In the rejoinder affidavit the petitioner has not disputed the objections raised in the counter affidavit filed on behalf of *Nagar Parishad*. It has, however, been stated that as *Nagar Parishad* has accepted part of the supply, they are under obligation to make payment against the same.

11. We are not inclined to interfere in the matter which arises out of purely contractual arrangement between the petitioner and the *Nagar Parishad*. The petitioner's interest is purely private and monetary in nature. The petitioner's claims



have not been admitted by the respondent *Nagar Parishad* rather *Nagar Parishad* is disputing the petitioner's claim on the ground that the petitioner failed to fulfill its obligation in terms of the work order.

12. It is relevant to note that it was clearly mentioned in the work order that the petitioner shall submit the bills after supply of the items. This is an admitted fact that the petitioner has not supplied the articles.

13. In such circumstance and for the aforesaid reasons, we do not find any merit in this writ application and we do not find any exceptional circumstance for this Court to interference in the matter which is purely contractual in nature. This application is, accordingly, dismissed.

14. The petitioner shall be, however, at liberty to approach appropriate forum, in accordance with law, to establish its claim, if permissible.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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Transmission Date	

