

**(2021) 12 PAT CK 0056**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 4229 Of 2021

Digambar Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

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**Date of Decision:** Dec. 22, 2021

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

**Bench:** Division Bench

**Advocate:** Ajit Kumar Singh, Deepanjali Gupta

**Final Decision:** Disposed Of

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### **Judgement**

Heard learned counsel for the parties.

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

â€œ(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the letter no. 1095 dated 25.09.2014 (Annexure-P-3) issued

under the signature of Respondent no. 6, whereby and where under the petitioner was directed to deposit the amount of Rs. 69,94,422/- (Rs. Sixty lacs

ninety four thousand four hundred and twenty two only) under the revised estimate of unfinished contractual work due to rescindment of two

agreements within one week failing which certificate case will be instituted.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the proceeding of Certificate Case No. 29 of 2014-15 pending in

the court of District Certificate Officer, Munger which was initiated pursuant to the letter no. 1095 dated 25.09.2014 issued under the signature of

Respondent no. 6 as well as the requisition filed by the respondent no. 6 before the Respondent no. 7.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to pay/release the forfeited mount under the head of security/deposit and deduction from bill to the petitioner.

(IV) For issuance of other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.â€

After the matter was heard for some time, learned counsel appearing on behalf of the petitioner, under instructions, states that petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.

Permission granted.

Learned counsel for the respondents states that if such an appeal is preferred within a period of four weeks from today, the issue of limitation, if any, shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following mutually agreeable terms:-

- (a) Petitioner is permitted to prefer an appeal within a period of four weeks from today;
- (b) In the event of appeal being preferred within a period of four weeks from today, the issue of limitation shall not come in the way of adjudication of the appeal on merits;
- (c) Opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;
- (d) Petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;
- (e) The Appellate Authority shall decide the appeal on merits, in compliance of the principles of natural justice;
- (f) The Appellate Authority shall pass a reasoned and speaking order, within a period of eight weeks from the date of filing of the appeal;
- (g) Copy of the reasoned and speaking order passed by the Appellate Authority shall be supplied to the parties;

(h) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(i) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(j) We have not expressed any opinion on merits and all issues are left open;

(k) Liberty reserved to the petitioner to challenge the order, before the appropriate forum, if required and desired.

The instant petition stands disposed of in the aforesaid terms.