

**Court No. - 40**

**Case :-** WRIT - C No. - 33693 of 2023

**Petitioner :-** Mahendra Prasad Dubey

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Brijesh Kumar Pandey, Amit Kumar Shrivastava

**Counsel for Respondent :-** C.S.C.

**Hon'ble Mahesh Chandra Tripathi, J.**

**Hon'ble Prashant Kumar, J.**

1. Heard Sri Brijesh Kumar Pandey, learned counsel for the petitioner and Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State respondents.

2. The petitioner has approached this Court for a positive direction under Article 226 of the Constitution of India for release of certain dues by the respondents on the plea that his father, late Vishwanath Dubey had performed certain work in the Irrigation Department but his actual payment has not been made till date.

3. In response to earlier order dated 04.10.2023, learned Additional Chief Standing Counsel has placed detailed instructions dated 16.10.2023 sent by the Executive Engineer, Badh Khand, Balrampur wherein the objection has been raised on two folds. Firstly, the claim is of the financial year 2014-15 and for the first time the petitioner has approached the department in the year 2023, which is liable to be rejected on the ground of delay and laches. Secondly, Clause 34 (4) of I.D. Form 111 of the Contract provides that in case, any dispute arises between the department and the contractor, the contractor should go in arbitration and, thereafter, the contractor should approach the competent court.

4. Considering the aforementioned facts and the objection, we are not inclined to entertain this writ petition. Needless to say, it is open to the petitioner to invoke the remedy as available in law.

5. Accordingly, the writ petition is ***disposed of***.

6. Copy of the instructions be also provided to the counsel for the petitioner.

**Order Date :-** 30.10.2023

S.P.