

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5359 of 2011

=====

M/S Rasto Pharmaceuticals having its office at Rastogi Bhawan, Dr. B.B.Ghosh Lane, Motijheel P.S-Town Thana, Town & District- Muzaffarpur, through its Proprietor Gopal Kumar Rastogi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Superintendent, District Jail, Siwan, District- Siwan.
3. The Medical Officer, District- Jail, Siwan, District- Siwan.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Laxmi Narayan Das

For the Respondent/s : Mr. Roy Shivaji Nath, AAG-3

Mrs.Manjari Nath, AC to AAG-3

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 01-07-2015

Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents for payment of price of medicine supplied by him to the respondent no.2.

Learned counsel appearing on behalf of the petitioner submits that, in view of the order passed by the competent authority of the respondent State, the petitioner supplied the required medicine on 28.12.2006 and accordingly bills were submitted by him. However, only one of the bills was paid, but despite repeated reminders, remaining bills were not paid. Hence, the present writ petition.

The matter has been contested by the respondents by filing counter affidavit on behalf of the respondent no.2. In paragraph nos.7, 10 and 11 of the aforesaid counter affidavit a plea has been taken by the respondents that there is no entry in the

stock ledger maintained in jail hospital, Siwan about the supply of medicines by the petitioner. It has further been stated that in absence of valid documents showing actual supply of the medicines by the petitioner to the jail authorities, the petitioner is not entitled to receive payment as claimed by him.

Learned AAG-3 appearing on behalf of the respondents submits that apart from merits, the whole claim of the petitioner is barred by limitation. According to him, under Article 14 of the Limitation Act, the period of limitation for the price of goods sold and delivered is three years from the date of delivery of goods. It is pointed out that, in the present case, the petitioner claims to have supplied the medicines on 28.12.2006 and the present writ petition was filed on 23.03.2011 i.e. beyond the period of limitation. Hence, on that ground also the petitioner is not entitled to get any relief in the present proceeding.

After having heard the parties and taking into consideration the fact that the claims raised on behalf of the petitioner for payment of his dues is under serious dispute in view of the assertions made in the counter affidavit filed on behalf of the respondent no.2 and further in view of the fact that the claim of the petitioner is barred by limitation, this Court is not inclined to exercise its discretionary powers under Article 226 of the Constitution of India for grant of reliefs claimed by the petitioner in the present writ petition.

Accordingly, the present writ petition stands dismissed. However, there shall be no order as to costs.

Arvind/-

(Birendra Prasad Verma, J)

U			
---	--	--	--