

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7058 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Ajay Kumar S/O Sri Damodar Mahto, Resident of Village Kolahi, P.O. Hassanpur, Road, District Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7068 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Krishna Kumar Singh S/O Sri Baleshwar Singh, Resident of Village Kasma Marar, P.S. Khajauli, District Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7069 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Ashok Chaubey S/O Late Jadunandan Chaubey, Resident of Village Kusmaul, P.O. Rampatti, P.S. Rajnagar, District Madhubani.

.... Respondent/s

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Civil Writ Jurisdiction Case No. 7116 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Raj Kumar Singh S/O Navilal Singh, Resident of Village Madana, P.O. Lalit Laxmipur, P.S. Khajauli, District Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7326 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Bharat Narain Sah S/O Fakir Sah, Resident of Village and P.O. Jagta, P.S. Bisti, District Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7524 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Pradeep Kumar S/O Sri Ramashish Singh, Resident of Village Mainapatti, P.O.

Maheshpura, P.S. Babubarhi, District Madhubani.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 7893 of 2011

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M/S Maa Durga Enterprises, a Proprietary Concern having its Cold Storage Unit at Industrial Area, P.O. & P.S. Pandaul, Dist. Madhubani through its Manager, Rajesh Ratan, Jyoti S/O Shri Shyama Nand Roy, Resident of Kutchary Road, P.S. and District Begusarai.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhavan, Bailey Road, Patna through its Managing Director.
2. The District Consumer Disputes Redressal Forum, Madhubani having its Situated at Civil Court Campus, Madhubani through its Secretary.
3. Gangadhar Sahu S/O Late Banalal Sahu, Resident of Village and P.O. Zafara, P.S. Bisti, District Madhubani.

.... Respondent/s

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Appearance :

(In CWJC No.7058 of 2011)

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2 : Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Indrajeet Bhushan
Mr. Harish Kumar

(In CWJC No.7068 of 2011)

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2: Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Indrajeet Bhushan
Mr. Harish Kumar

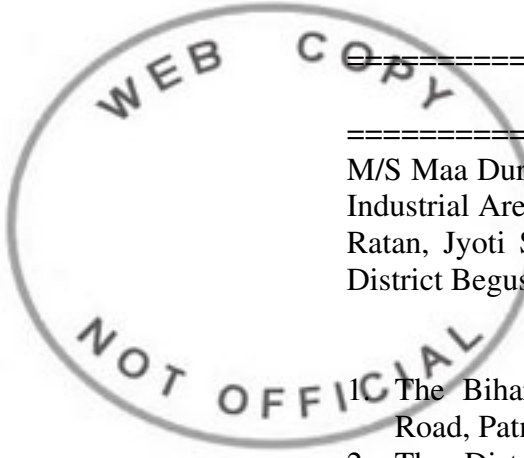
(In CWJC No.7069 of 2011)

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2: Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Satish Chandra Jha
Mrs. Puspa Rani
Mrs. Punam Kumari

(In CWJC No.7116 of 2011)

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2: Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Satish Chandra Jha
Mrs. Puspa Rani Mrs. Punam Kumari

(In CWJC No.7326 of 2011)



For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2: Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Satish Chandra Jha
Mrs. Puspa Rani
Mrs. Punam Kumari
(In CWJC No.7524 of 2011)
For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2: Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Satish Chandra Jha
Mrs. Puspa Rani
Mrs. Punam Kumari
(In CWJC No.7893 of 2011)
For the Petitioner/s : Mr. S.D. Sanjay, Sr. Adv.
Mr. Alok Kumar Agrawal
For the Respondent No.1 & 2: Mr. Lalit Kishore, Sr. Adv.
Mr. Piyush Lall
For the Respondent No.3 : Mr. Satish Chandra Jha
Mrs. Puspa Rani
Mrs. Punam Kumari

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 10-07-2015

In this batch of seven writ petitions, the petitioner is one and common in each of the writ petitions, and the issues of facts and law involved are also common and identical, therefore, on the request of the learned counsel appearing on behalf of the parties, all these writ petitions have been heard together and are being disposed of by this common judgment.

2. The petitioner, which is a proprietary concern and was having its Cold Storage Unit at Industrial Area Pandaul in the District of Madhubani, has filed all these writ petitions under Article 226 of the Constitution of India assailing the validity and correctness of order(s) passed by the District Consumer Disputes Redressal Forum, Madhubani (In short 'the District Forum'), whereby separate complaints filed on behalf of the respondent no.3 of each of the writ petitions under Section 12 of The Consumer Protection Act, 1986 (In

short “the Act”) giving rise to Consumer Case Nos. 117 of 2007, 53 of 2008, 09 of 2008, 120 of 2007, 08 of 2008, 119 of 2007, and 10 of 2008 respectively, have been allowed and the petitioner has been directed to pay damages/ compensation to each of the complainants as indicated in the impugned separate orders, which have been annexed as Annexure-1 in each of the writ petitions.

3. It is admitted case of the parties that the respondent no.3 herein in all the writ petitions, who are farmers, kept their potatoes in the Cold storage of the writ petitioner on different dates in the year 2007 for its storage/ preservation and maintenance on payment of fixed amount of rent. However, when they went to take back their potatoes on payment of rent in the month of October, 2007, they were asked to come back after ‘Chhath’ festival, but when they went once again in the month of November, 2007, they were told that potatoes kept by them have been damaged/ rotted.

4. On account of loss sustained by the aforesaid farmers, they filed their separate complaints under Section 12 of the Act for payment of damages sustained by them as also for payment of compensation, which all have been detailed in the impugned orders passed by the learned District Forum. In response to the notice, the writ petitioner as also its Manager, who were impleaded as opposite parties in each of the cases, entered their appearance and filed their show cause resisting the claims of the farmers on the ground mentioned therein in their respective show cause. Subsequently, the Bihar Industrial Area Development Authority (In short ‘BIADA’) (respondent no.1 herein in all the writ petitions) was also added as one of the opposite parties in all those complaint cases filed on behalf of the farmers/ complainants. On the basis of the materials produced by the parties, the claims raised on behalf of the complainant-

respondent no.3 herein in all the writ petitions have been allowed by the learned District Forum by separate orders, which have been impugned in these writ petitions.

5. Learned Senior counsel appearing on behalf of the petitioner in each of the writ petitions submitted that the impugned orders passed by the learned District Forum is in the teeth of judgment and order dated 24.09.2008 passed in C.W.J.C. No. 14312 of 2007 (**M/s Maa Durga Enterprises vs. The State of Bihar & Ors.**), since reported in 2009(2) PLJR 1000, therefore, it is wholly without jurisdiction and is fit to be set aside on that ground alone. According to him, on the basis of letter dated 30.10.2007 issued by the Executive Director of BIADA, direction was issued to lock and seal the Cold Storage of the petitioner and accordingly, on 02.11.2007 guards of BIADA were posted there in the premises restraining operation of the Cold Storage and finally on 04.11.2007, the cold storage of the petitioner was formally locked and sealed by the officers of BIADA with the help of the Executive Magistrate and the police force. However, subsequently on 07.11.2007 the premises of the cold storage were unsealed by the officers of BIADA in presence of the Executive Magistrate. It is contended that on account of locking and sealing of the premises of the cold storage, the potatoes kept by the farmers rotted and, therefore, it could not be returned to them. It is further contended that the petitioner, being aggrieved by the aforesaid action of BIADA filed C.W.J.C. No. 14312 of 2007 (**M/s Maa Durga Enterprises vs. The State of Bihar & Ors.**), which was finally allowed by a learned Single Judge of this Court by the aforesaid judgment and order dated 24.09.2008, since reported in 2009(2) PLJR 1000. The thrust of his argument is that pursuant to the aforesaid judgment, BIADA was impleaded as



opposite party in all those aforesaid consumer cases filed on behalf of the farmers, therefore, whatever liability has been fixed by the learned District Forum against the petitioner, that is required to be paid/ reimbursed by the respondent BIADA and not by the petitioner. It was lastly contended that though the impugned order(s) passed by the learned District Forum is appealable under Section 15 of the Act, but the impugned order, being wholly without jurisdiction and in teeth of the order and direction issued by this Court in the case of (M/s Maa Durga Enterprises vs. The State of Bihar & Ors.) since reported in 2009(2) PLJR 1000, the present writ petition is maintainable and availability of the alternative statutory remedy of appeal may not be treated as a bar for entertainment of this batch of writ petitions against the order(s) passed by the learned District Forum. In support of his above contention, he has placed reliance on judgements of the Hon'be Apex Court in the cases of L. **Hirday Narain vs. I.T. Officer, Bareilly** [*AIR 1971 SC 33*] (*Paragraph-12*), **Ram and Shyam Company v. State of Haryana** [*AIR 1985 SC 1147*] (*Paragraph-9*) and **Whirlpool Corporation V. Registrar of Trade Marks, Mumbai** [(1998) 8 SCC 1] (*Paragraph-14, 15, 17 and 19*).

6. Per contra, learned senior counsel appearing on behalf of the respondent BIADA has raised the question of maintainability of the present writ petitions primarily on two grounds. According to him, the petitioner has alternative and efficacious statutory remedy of appeal under Section 15 of the Act before the State Consumer Dispute Redressal Commission, Bihar, Patna (In short 'State Commission'). Therefore, the writ petitions are liable to be dismissed on that ground alone. It is submitted that though availability of alternative remedy is not a bar for exercise of powers of judicial



review under Article 226 of the Constitution of India, but on account of self-imposed restriction by the High Courts, the power of judicial review in the given facts of the case may not be exercised. Secondly, it contended that the claims raised on behalf of the petitioner against the respondent BIADA in this batch of the writ petitions are based on disputed question of fact, as no findings of facts have been recorded by the learned District Forum that damages to the potatoes kept by the farmers was on account of action of the respondent BIADA during the period from 02.11.2007 to 07.11.2007. Therefore, on that count also, it is pleaded that the writ petitions are not maintainable. In support of his above contention he has also placed reliance on the judgments of the Hon'ble Apex Court in the cases of **Whirlpool Corporation V. Registrar of Trade Marks, Mumbai** (supra) (Paragraphs 14 to 20) and **Nivedita Sharma v. Cellular Operators Association of India** [(2011) 14 SCC 337].

7. Learned counsel appearing on behalf of the farmers, respondent no.3 herein in the present proceedings, have also raised the question of maintainability of these writ petitions on the ground of availability of alternative remedy to the petitioner before the learned State Commission. According to them, the farmers are moving from pillar to post, but they have not been compensated till date despite the order passed by the learned District Forum in their favour. Alternatively, it was submitted that they are entitled to receive compensation/ damages as awarded by the learned District Forum, no matter either by the writ petitioner or by the BIADA or by the State of Bihar, but they must be paid their lawful dues. They also placed reliance on the judgment of the Hon'ble Apex Court in the case of **Nivedita Sharma v. Cellular Operators Association of India** (supra).



8. Before adverting to the rival submissions advanced on behalf of the parties, it would be useful to examine the scheme of the Act. Under the Act, for deficiency in service of any trader or service provider, a complaint can be filed by any consumer before the District Forum under Section 12 of the Act. After admission of the complaint filed by the consumer, District Forum is required to decide such complaint in accordance with the procedure prescribed under Section 13 of the Act and thereafter final order is required to be passed under Section 14 of the Act. If any person is aggrieved by the order passed by the District Forum, he/she is entitled to file appeal before the State Commission under Section 15 of the Act. The State Commission is also empowered to entertain a complaint directly where the value of the goods or services and compensation claimed exceeds Rs. 20 lakhs, but does not exceed Rs. 1 crore. On complaint being decided by the State Commission, if any person is aggrieved by such order, he/she may approach the National Commission under Section 19 of the Act. The order passed by the National Commission is appealable to the Hon'ble Supreme Court under Section 23 of the Act. Section 24 of the Act provides that every order passed by the District Forum, the State Commission or National Commission shall become final, if no appeal is preferred against such order under the provisions of this Act.

9. Coming to the present case the order impugned is clearly appealable before the State Commission under Section 15 of the Act, but the petitioner, instead of filing statutory appeal, has preferred this batch of writ petitions against the impugned orders passed by the learned District Forum primarily on the basis of the judgment and order passed by a learned Single Judge of this Court on 24.09.2008 in C.W.J.C. No. 14312 of 2007 (**M/s Maa Durga Enterprises vs. The**

State of Bihar & Ors.), since reported in *2009(2) PLJR 1000*.

10. It may be appropriate to notice that in the aforesaid C.W.J.C. No. 14312 of 2007 filed by the petitioner, none of the farmers were impleaded as party respondent, and the action challenged was that of the respondent BIADA. As noticed above, the aforesaid writ petition was allowed by order and judgment dated 24.09.2008 and the State was directed to pay Rs. 1,000,00/- to the petitioner by way of compensation. It is true that an observation was made by the learned Single Judge of this Court that the petitioner would apply to the learned District Forum for adding BIADA as the opposite party, and in case the learned District Forum holds the petitioner liable to pay compensation to the complainant therein i.e. the farmers, the compensation would be paid by the BIADA. It was further observed that on payment of such compensation, State or BIADA shall be at liberty to recover the same from the officers, who were responsible for the action taken against the petitioner during the period from 02.11.2007 to 07.11.2007.

11. After having heard the parties and on consideration of materials available on record, this Court is of the opinion that this batch of writ petitions at this stage is not maintainable on account of certain inherent defects. Firstly, the farmers had not filed any complaint against the respondent BIADA. They were not the consumers of BIADA. They cannot raise any claim of deficiency of service against the respondent BIADA. If the claim raised on behalf of the petitioner is accepted, then the farmers claim may have to be rejected and the complaint filed under Section 12 of the Act may be held to be not maintainable, as there was no contract between the farmers/ complainants and the BIADA for keeping the potatoes in the cold storage of the writ petitioner. Secondly, the farmers were not the



parties in C.W.J.C. No. 14312 of 2007 disposed of on 24.09.2008 (M/s Maa Durga Enterprises vs. The State of Bihar & Ors.), since reported in 2009(2) PLJR 1000. Therefore, any judgment and order passed by the learned Single Judge in the aforesaid writ petition is not binding upon the farmers. However, it is true that the petitioner would be entitled to recover the amount of compensation/ damages from the respondent BIADA, which are required to be paid to the farmers pursuant to the orders passed by the learned District Forum. In fact, in the impugned orders passed by the learned District Forum, such protection has already been given and the interest of petitioner has been protected in the light of the judgment and order dated 24.09.2008 passed in C.W.J.C. No. 14312 of 2007 (**M/s Maa Durga Enterprises vs. The State of Bihar & Ors.**), since reported in 2009(2) *PLJR 1000*, but on account of dispute between the petitioner and the respondent BIADA, the poor farmers can not be made to suffer. Thirdly, the petitioner has statutory alternative and efficacious remedy of appeal under Section 15 of the Act.

12. It is well settled that before invoking jurisdiction under Article 226 of the Constitution of India, the aggrieved person must exhaust his statutory alternative remedy. Appeal before the State Commission would not simply be an alternative remedy, but efficacious also. In fact, in view of the judicial pronouncement made by the Hon'ble Apex Court in the case of **Nivedita Sharma v. Cellular Operators Association of India** (*supra*) the petitioner must exhaust its alternative remedy before the State Commission. Furthermore, whether the potatoes kept by the farmers suffered damages and rotted either during 02.11.2007 to 07.11.2007 or prior to that or even thereafter, this fact was neither raised nor conclusively decided by the learned District Forum. In above view of the matter, it

cannot be conclusively held that the potatoes kept by the farmers rotted and suffered damages during the relevant period. In fact, for getting a finding on that issue, the petitioner is yet to bring an appropriate proceeding/lis before an appropriate forum/court. In absence of such finding, the farmers cannot be compelled to await, the lis between the petitioner and respondent BIADA being finally decided by an appropriate forum/court.

13. It is true that in certain exceptional cases the powers of judicial review under Article 226 of the Constitution of India can be invoked even if statutory alternative remedy has not been exhausted. In the case of **Whirlpool Corporation V. Registrar of Trade Marks, Mumbai** (supra) certain conditions have been indicated wherein despite availability of alternative remedy powers of judicial review can be exercised by the High Courts. The Hon'ble Apex Court recently in the case of **Commissioner of Income Tax v. Chhabil Dass Agrawal [(2014) 1 SCC 603]** has held that when the statutory forum is created by law for redressal of grievances, the writ petition should not be entertained ignoring statutory dispensation subject to certain exceptions. The Hon'ble Apex Court further opined that non-entertainment of petitions under the writ jurisdiction by the High Courts where efficacious or alternative remedy is available, is a rule of self- imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. The Hon'ble Apex Court has also opined that undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 of the Constitution of India despite existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has

made out an exceptional case warranting such interference or if there is sufficient grounds to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India.

14. For better appreciation paragraphs 11, 15 and 16 of the Judgment of the Hon’ble Apex Court in the case of **Commissioner of Income Tax v. Chhabil Das Agrawal** (supra) are reproduced herein below:

“11. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under [Article 226](#) despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under [Article 226](#). (See: [State of U.P. vs. Mohammad Nooh](#), AIR 1958 SC 86; [Titaghur Paper Mills Co. Ltd. vs. State of Orissa](#), (1983) 2 SCC 433; [Harbanslal Sahnia vs. Indian Oil Corpn. Ltd.](#), (2003) 2 SCC 107; [State of H.P. vs. Gujarat Ambuja Cement Ltd.](#), (2005) 6 SCC 499).

x	x	x
X	x	x

15. Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the



provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar judgments that the High Court will not entertain a petition under [Article 226](#) of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.

16. In the instant case, the Act provides complete machinery for the assessment/re-assessment of tax, imposition of penalty and for obtaining relief in respect of any improper orders passed by the Revenue Authorities, and the assessee could not be permitted to abandon that machinery and to invoke the jurisdiction of the High Court under [Article 226](#) of the Constitution when he had adequate remedy open to him by an appeal to the Commissioner of Income Tax (Appeals). The remedy under the statute, however, must be effective and not a mere formality with no substantial relief. In [Ram and Shyam Co. vs. State of Haryana](#), (1985) 3 SCC 267 this Court has noticed that if an appeal is from “Caesar to Caesar’s wife” the existence of alternative remedy would be a mirage and an exercise in futility.”

15. Applying the aforesaid principles in the facts of the present case, this Court is of the considered opinion that the present case does not come within the exceptions enumerated by the Hon’ble Apex Court in the aforesaid case of **Commissioner of Income Tax**

v. Chhabil Dass Agrawal (supra). That being the factual position, the petitioner must exhaust its statutory alternative remedy of appeal under Section 15 of the Act before the State Commission, so that poor farmers, respondent no.3 herein in all the writ petitions, are given the adequate relief. It is reiterated that the amount paid by the petitioner to the farmers towards their damages/ compensation can be recovered by it from BIADA or from any other authority, but by brining an appropriate proceeding/lis before an appropriate forum/court, which has already been observed by the learned District Forum in the impugned orders.

16. For the reasons recorded above, all these writ petitions are dismissed, but without costs. Interim orders of stay passed separately in each of the writ petitions on 22.6.2011 by a Bench of this Court stand vacated. However, the petitioner is granted liberty to file appeal(s) before the learned State Commission under the provisions of the Act. If such appeal/ appeals is/are filed on behalf of the petitioner against the impugned order(s) passed by the learned District Forum within a period of four weeks from today with a certified copy of the present order, then the same shall be considered and decided in accordance with law on its own merits without being prejudiced/ influenced by dismissal of these writ petitions and shall not be dismissed on the ground of limitation, as on a bonafide legal advice these writ petitions were filed on 21.4.2011 or thereafter in the year 2011 and remained pending before this Court till date.

(Birendra Prasad Verma, J)

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A.F.R.

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