

IN THE HIGH COURT OF JUDICATURE AT PATNA
Company Petition No.6 of 2014

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Bihar State Construction Corporation Ltd. Having Its Registered Office At
Khawaja Imli, Anishabad, Patna - 800002 Through Its Managing Director
Namely Mr. Maharaj Ram

.... Petitioner

Versus

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.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Shukla

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 09-07-2015 Heard Mr. Ravindra Kumar Shukla, learned counsel for
the petitioner.

In the considered opinion of this Court this Company
Petition is not maintainable for the simple reason that earlier the
same company had filed Company Petition No. 5 of 2003 which
was permitted to be withdrawn by an order of this Court dated
12.3.2004 on the ground that it was not in accordance with Form
47 as provided under Order 95 of the Company Court's Rule. The
petitioner Corporation having withdrawn Company Petition No.
5/2013 had filed a fresh Company Petition, Company Petition No.
22 of 2004 and that was dismissed by an order of this Court dated
19.10.2006 holding that the company petition was not
maintainable in terms of Inter-State Corporation Act, 1957 read
with Bihar Reorganization Act. Such an order of the Company



Judge dated 19.10.2006 was made subject matter of the Company Appeal and the Division Bench in its judgment dated 18.1.2008 had set aside the order dated 19.10.2006 of the Company Judge and had remitted the matter back.

As a result of the order of the Division Bench the proceedings of company Petition No.22/2004 were revived but then on 15.5.2010 such Company Petition No.22/2004 was dismissed for default.

Mr. Shukla has tried to explain that after 15.5.2008 since the Government was taking steps for rehabilitation of the company, neither the restoration application was filed for revival of Company Petition No.22/2004 nor any other steps were taken but when it became very clear that the Government was not going to do the needful for revival of the Corporation, the present Company Petition No. 6 of 2014 was filed on 9.12.2014. He, therefore, submits that under such circumstances the company petition will be maintainable.

In the considered opinion of this Court there would be no occasion the company to file a fresh application. Its Company Petition No.22/2004 having been only dismissed for default the Company could have filed a restoration application wherein delay could have been sought to be explained on the basis of submission

made today. In presence of the earlier order of dismissal of Company Petition dated 15.5.2008 a fresh company petition i.e. present company petition will however not be maintainable.

This Company petition is, accordingly, dismissed but it is made clear that nothing said in this order shall prejudice the petitioner in filing its application for restoration of Company Petition No.22/2004.

surendra/-

(Mihir Kumar Jha, J)

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