

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.172 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 7580 of 2014

Along with

Interlocutory Application No.808 of 2015

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Krishna Kumar Nayak, S/o Sri Laxmi Nayak, resident of village-Supaul Bazar,
P.O+P.S-Bairaul, Distt-Darbhanga, Proprietor-M/S Gopal Industries, Mill at
Village-Karkouli, P.O-Bairul, P.S-Ghyanshyampur, District-Darbhanga.

.... Petitioner-Appellant

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, State of Bihar, Patna.
2. The District Collector/Magistrate, Darbhanga.
3. The Sub Divisional Officer, Hilsa, District-Darbhanga.
4. The Bihar State Food and Civil Supplies Corporation Ltd. through its Chairman
5. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Darbhanga.
6. The Certificate Officer cum Addl. Collector, Darbhanga.

.... Respondents-Respondents

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Appearance :

For the Appellant : Mr. Krishna Mohan Mishra, Advocate

For the Respondents-State : Mr. Abaidullah, A.C. to S.C.-4

For the Respondent-BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 11-05-2016

Re.: Interlocutory Application No.808 of 2015

The application is for condonation of delay of 140 days in

filing of the present appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is shown by the appellant to condone such delay. Consequently, the delay in filing of the present Letters Patent Appeal is condoned.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.172 of 2015

The order dated 22nd July, 2014 passed by the learned Single Bench in CWJC No.7580 of 2014 is subject matter of challenge in the present Letters Patent Appeal.

2. The writ application is directed against an order passed by the Certificate Officer-cum-Additional Collector, Darbhanga in Certificate Case No.16/2013-14 on 14th March, 2014. The learned Single Bench has found that such order is an appealable order in terms of Section 60 of the Bihar and Orissa Public Demand and Recovery Act (for short, 'the Act') and still in revision under Section 62 of the Act. In view of the alternative remedy available to the writ applicant, the writ application was not entertained.

3. In the present Letters Patent Appeal, the argument of learned counsel for the appellant is that requisition sent by the respondents herein was not proper as no court fee was paid. Even such objection can very well be raised by the appellant in an appeal under Section 60 of the Act or in revision under Section 62 of the Act.

4. In view of the efficacious statutory remedy available to the appellant, we do not find any reason to interfere with the order passed by the learned Single Bench in the present Letters Patent Appeal. The Letters Patent Appeal, thus, stands dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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