

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1750 of 2015
IN
Civil Writ Jurisdiction Case No. 12211 of 2010**

=====

1. Radha Flour Mills Pvt. Ltd., a Limited Company under the Companies Act, 1956 having its registered office at Radha Nagar, P.O. Motihari, P.S. Nagar Thana, in the town of Motihari, District East Champaran through its Managing Director Shambhu nath Sikaraia.

2. Shambhu Nath Sikaria S/o Late Radha Krishna Sikaria R/o Radha Nagar, P.O. Motihari, P.S. Nagar Thana, in the town of Motihari, District East Champaran.

.... Appellants

Versus

1. The State of Bihar.

2. The Secretary cum Industrial Development Commissioner, Government of Bihar, Patna.

3. The Director of Industries, Bihar, Patna.

4. General Manager, District Industries Centre, Motihari, East Champaran.

5. The Commissioner cum Secretary, Commercial Taxes Department, Bihar, Patna.

.... Respondents

=====

Appearance :

For the Appellants : Mr. Prince Kumar Mishra, Advocate

For the Respondents : Mr. Manish Dhari Singh, AC to PAAG I

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 19-01-2017

Petition for condonation of delay, which is I.A. No. 7873 of 2015, has been filed for condoning the delay of 1699 days, which works out to approximately four years and 239 days.

The sole reason given is that the appellant was preoccupied due to treatment of his wife, since he kept travelling in and out of the city.

The extraordinary delay and the rationale and the reasoning provided do not convince the Court that the appellant was



really serious in pursuing the matter.

Even otherwise the Court looked into the merits of the decision passed by the learned single Judge. From perusal of the order, it seems that the petitioner had earlier filed a writ application, namely, C.W.J.C. No. 15722 of 2001, which was dismissed as withdrawn on 22.06.2004. After more than six years, he decided to file yet another writ application for the same relief, which was C.W.J.C. No. 12211 of 2010, in which the learned single Judge has passed the order impugned. The learned single Judge has dismissed the writ application keeping in mind the principles of law laid down by the Hon'ble Apex Court in the case of Sarguja Transport Service vs. State Transport Appellate Tribunal, reported in AIR 1987 SC 88 as well as the case of Sarva Shramik Sanhatana (KV) Mumbai vs. State of Maharashtra and others (2008) 1 SCC 494.

The bona fide of the appellant is missing throughout. He wants to litigate at his own leisure and at his own pace without there being any serious desire on his part to assert his right. Therefore, such a litigant is not required to be encouraged. The limitation petition is rejected. As a consequence thereof, even the appeal is rejected.

This is a fit case where a cost of Rs.10,000.00 (ten thousand) should be awarded to the appellant, which should be



deposited before the Patna High Court Legal Services Committee within a period of six weeks because that money can be used by a litigant, who cannot afford justice otherwise. If the said cost is not deposited by the appellant within a period of six weeks, the same will be recovered through process of law and may be the Court even initiate a contempt against the appellant if he fails to deposit the cost within the time frame.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.01.2017
Transmission Date	N/A

