IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1419 of 2016

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Anil Kumar Panjiar S/o Bharat Panjir Resident of village + P.O. + P.S. Babu Barhi, Distt. - Madhubani

.... Appellant/s

Versus

1. The Union of India through the Secretary, Department of Petroleum and Chemicals, New Delhi
2. Bharat Petroleum Corporation Limited, through its Chairman Cum - Managing Director Bharat Bhawan 4 and 6 Currombhay Road Rullard Estate, Mumbai - 400001
3. The Area Marketing Manager, Bharat Petroleum Corporation Ltd., 3rd Floor Ashiana Chamber Exhibition Road, Patna 800001
4. Territory Manager (Retail) Bharat Petroleum Corporation Limited At Paproul, P.S. Barauni, Distt. Begusarai
5. Narayan Prasad Choudhary S/o Late Ram Bilas Choudhary Resident of village + P.O. + P.S. Babnu Barhi, Distt. - Madhubani

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Mira Kumari
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 20-09-2017

Seeking exception to an order dated 11.05.2016 passed by the learned Writ Court in CWJC No. 22951 of 2011 this appeal has been filed under Clause 10 of the Letters Patent.

Matter pertains to allocation of a retail outlet dealership for petroleum undertaken in the year 2009. The learned Writ Court has dismissed the writ petition mainly on the ground that there is a delay on the part of the petitioner in approaching this Court and, therefore, indulgence could not be made.

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It is vehemently argued before us that after the merit list was prepared on 17.02.2009 the appellant filed a complaint on 11.01.2010. The complaint was not decided within the stipulated period of 30 days and, therefore, after a period of more than two years in December, 2011, the writ petition in question was filed. However, the delay of two years has explained in the writ petition by contending that the petitioner was continuously representing and seeking information under the R.T.I. Act and as he was prosecuting the departmental remedies the delay in question was caused.

In the matter of grant of dealership and contract challenge has to be made immediately within a reasonable period of time and merely because repeated representations have been made by the petitioner indulgence cannot be made into the matter. On the petitioner's own showing it is clear that the merit list was published on 17.02.2009. The petitioner submitted a complaint on 11.01.2010 and after the complaint was not decided within the stipulated period for 30 days, he should have invoked the jurisdiction of this Court within a reasonable period of time. On the contrary, the records indicate that the petitioner kept on pursuing the departmental remedies for two years and invoked the jurisdiction of this Court on 20.12.2011 and during all this period he remained satisfied with pursuing the departmental remedy available. Once the petitioner slept over for two years in a matter of establishment of a petroleum outlet

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involving investment of huge amount, construction and various other infrastructural demand merely because the petitioner was engaged in seeking departmental remedy, it is not a fit case for exercising the jurisdiction of this court in a writ proceeding and that also after a period of two years and undo all that has been done for establishment of the outlet.

That apart, the matter was kept pending before this Court for four years after the writ petition was filed. When the writ petition came up for hearing in the year 2016, the outlet granted to the private respondent had been fully established and had been functional for a period of more than five years.

Taking note of all the circumstances we see no reason to interfere into the order of the learned Writ Court dismissing the writ petition. The appeal stands dismissed accordingly.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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