

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.731 of 2016

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1. Smt. Archana Kumari wife of Sri Manoj Kumar resident of ward No. 12, Suratganj, P.O. and P.S. & District - Madhubani, presently residing at Flat No. 201, Yashodanand Enclave, Kidwaipuri, P.S. Budha Colony, District - Patna.

.... Appellant/s

Versus

1. The Indian Oil Corporation Limited, having its registered office at 9 Ali Yavar Marg, Bandra (East), Mumbai through its Managing Director.
2. The General Manager, Indian Oil Corporation Limited Bihar State Office at Lok Nayak Bhawan, 5th Floor, Dak Bungalow Road, Patna.
3. The Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited, Muzaffarpur Divisional Office, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Pranav Kumar, Advocate

For the Respondent/s : Mr. Anil Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-06-2017

Delay of 67 days in filing the appeal is condoned and

I.A. No.3151 of 2016 is allowed.

Seeking exception to an order dated 25.1.2016 passed by the learned Writ Court in C.W.J.C. No.8380 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

A letter of intent was issued to the petitioner on 6.2.2004 and the petitioner stood satisfied by representing to the Department or the Corporation and after ten years invoked the writ jurisdiction of this Court under Article 226 of the Constitution, for



grant of work/contract as per the letter of intent. Holding that after a period of ten years no orders or mandamus can be issued for grant of benefit based on a letter of intent issued on 6.2.2004, the learned Writ Court refused to interfere into the matter.

Shri Y.V. Giri, learned senior counsel appearing for the appellant, vehemently argued that the petitioner having submitted repeated representations for more than ten years was waiting for a reasonable reply or response from the State Government and, therefore, the State Government is liable for delay caused in approaching this Court.

In the case of S.S. Rathore vs. State of M.P., AIR 1990 SC 10, Hon'ble Supreme Court has held that merely on the ground of representing, pending or no decision taken, and submitting repeated representations, a litigant cannot seek for condonation or adopting a sympathetic view for the delay in approaching the Court. Representing and submitting repeated representations does not give a fresh cause of action and if a litigant is not vigilant enough and does not approach the Writ Court within a reasonable period, the same cannot be a ground for condonation of delay prayed on behalf of the litigant, and in such a case on account of inordinate delay in invoking the court's jurisdiction, on account of delay and laches, the petition can be dismissed.



If the aforesaid principle is applied to the present case, we find that the letter of intent was issued on 6.2.2004, the writ petition was filed in 2014 i.e. after ten years during which period various events would have taken place which includes change of policy, eligibility criteria etc. for the purpose of grant of dealership etc. for a petroleum product.

In view of inordinate delay in invoking writ jurisdiction of this Court and in view of the law laid down by the Hon'ble Supreme Court in the case of S.S. Rathore (supra), indulgence into the matter in such a case is not called for.

We see no reason to make any indulgence in the matter as the statutory authority has proceeded in the matter in accordance with law and the learned Writ Court has rightly not interfered into the same.

This appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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