

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.301 of 2016

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1. The State of Bihar through the Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna.
 2. The Executive Engineer, Road Construction Department, N.H. Division, Biharsharif.

... .. Petitioner/s

Versus

M/s Dayananad Prd Sinha & Com, Partner Sri Dayanand Prasad Sinha Son of Sri H.B. Lal Resident of Janta Path, Kankarbagh Road, Police Station Kankarbagh, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Ballabh Prasad
		Mr. Dinesh Maharaj
For the Respondent/s	:	Mr. L.B.Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

13 17-11-2017 Heard learned counsel for the parties.

2. This Civil Revision application has been filed under Section 13 of the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008, which is directed against the award, dated 04.06.2014, passed in Reference Case No. 110 of 2010 (M/s Dayanand Prasad Sinha & Co. Vs. State of Bihar and anr).

3. This revision application is barred by limitation inasmuch as it has been filed on 05.12.2016, i.e., more than two years and six months from the date of the award. The period of limitation prescribed under the Act is 90 days for filing of the civil revision application against an award under the Act.



4. I.A. No. 9736 of 2016 has been filed seeking condonation of delay. The reason, which has been assigned in the application seeking condonation of delay is that the petitioners learnt about the passing of the said award, dated 04.06.2014, only when notice was issued by learned Sub-Judge, Patna in Execution Case No. 269 of 2015. It is stated in the application that thereafter steps were taken for challenging the said award.

5. A supplementary affidavit has been filed in support of the said limitation petition, this time accusing learned senior counsel, who according to the Department was engaged to conduct the case but left the case without any information and notice. Thereafter an application has been filed being I. A. No. 3117 of 2017 seeking deletion of the statement made in paragraph 4 of the supplementary affidavit. Now it is being stated in paragraphs 2 to 5 as follows:-

“2. That it is submitted that the real fact is that for filing supplementary affidavit the records of the department was verified and was found that the matter was allotted with one Counsel namely Keshav Srivastava, advocate and on that basis only the statement of fact for filing supplementary affidavit was prepared, in which it has been mentioned that Keshav Srivastava was the conducting counsel in the matter.

3. That it is further submitted that on



that basis the deponent took oath and thereafter the supplementary affidavit filed in the matter.

4. That it is submitted that the matter was again re-verified and then it was found that the matter was transferred to Sri K.K. Mishra, Advocate who conducted the case after Kshav Srivastava, Advocate, which was not pointed out at the time of preparation of the statement of fact.

5. That it is humbly submitted that the aforesaid wrong was occurred as human error and the same is neither intentional nor deliberate, and as such the deponent tender unconditional and unqualified apology caused due to the aforesaid act of inconvenience to Hon'ble Court."

6. It has been stated that it was not the intention of the deponent to mislead the court and it was only an act of human error. There is yet another supplementary affidavit dealing with the delay. This time blaming the respondents of ensuring that the award of the Tribunal was deliberately not made known to the Department. It is apparent from the averments made in the limitation petition and subsequent affidavits and petition for deletion of statement as noted above, that the State of Bihar has not at all been vigilant in conducting the reference case before the Tribunal. It is also evident that vacillating stands have been taken for condonation of delay.

7. In my view, the petitioners have failed to make out a



case that there existed sufficient reasons, which prevented them from filing of civil revision within time. The limitation petition is accordingly, dismissed.

As consequence thereof, the Civil Revision application stands dismissed.

(Chakradhari Sharan Singh, J)

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