

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.245 of 2017

IN

Civil Writ Jurisdiction Case No. 341 of 2012

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1. The Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Marg, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Marg, Patna.
3. The Chief of Administration, Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Marg, Patna.
4. The Chief of Claims, Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Marg, Patna.

.... Respondents/Appellants

Versus

Md. Sanaullah Ahsan, son of Md. Abbas Al Ahsan, Opposite Katra School, Mewa Sah Lane, P.S. Sultanganj, District- Patna.

.... Petitioner/Respondent

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Appearance :

For the Appellants : Mr. Anjani Kumar, Sr. Advocate

Mr. Shailendra Kumar Singh, Advocate

For the Respondent/s : Mr. Kamla Kant Tiwary, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT & ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date: 26-09-2018

We have heard the learned counsel appearing on



behalf of the respective parties.

2. The respondent (original writ-petitioner), by order dated 06.01.2005 contained in Memo No. 169, issued by appellant No. 3 herein, *viz.*, the Chief Administration, Bihar State Food and Civil Supplies Corporation, has been slapped with an interest @ 18% over the losses which had occurred because of his inept handling and which was quantified at Rs. 4,59,066.61/- and which amount had already been recovered from him.

3. The aforesaid order of appellant No. 3 was affirmed on appeal by appellant No. 4, *viz.*, the Chief of Claims, Bihar State Food and Civil Supplies Corporation, by his order dated 06.04.2009.

4. Aggrieved by the aforesaid two orders, the respondent (original writ-petitioner) preferred C.W.J.C. No. 341 of 2012, challenging the aforesaid two orders on the ground that realization of interest @ 18% was not only harsh and unwarranted, but amounted to double whammy for no apparent reason.

5. The learned Single Judge found that the respondent (original writ-petitioner) was charged and held guilty for having cause wastage of stored foodgrains resulting in financial losses to the Corporation. The recovery of the amount so quantified towards losses was made in excess.



Instead of returning the excess amount, the Corporation directed the respondent (original writ-petitioner) to pay interest on the quantified losses @ 18%.

6. The learned Single Judge was of the view that once the losses were quantified and the same was recovered from the respondent (original writ-petitioner), it amounted to complete redressal of the fault of the respondent (original writ-petitioner). Recovery of the amount quantified for the losses partake of the character of a Penal proceeding, which takes into account the entire facts and circumstances. Putting interest over the said amount would be nothing less than an arbitrary decision. With the realization of the quantified amount of losses, the grievance of the Department gets completely redressed.

7. The learned Single Judge also appears to have taken note of a decision rendered by the Jharkhand High Court in that regard, which finds approval of the Hon'ble Supreme Court as well. As such, the learned Single Judge has directed the excess amount so recovered to be refunded to the respondent (original writ-petitioner) positively within a period of three months from the date of receipt/production of a copy of the order failing which, the Corporation would have to pay interest @ 6% per annum calculated from the date of recovery till the date of payment.



8. From the perusal of the records, it appears that against the quantified losses of Rs. 4,59,066.61/-, the recovery has been made of Rs. 5,30,989/-, which is in excess of Rs. 71,922.39/-

9. This Court has now been informed that pursuant to the order passed by the learned Single Judge, the amount quantified for the losses, which has been recovered in excess of the same, has been returned along with interest @ 6%, as directed by the learned Single Judge.

10. We have no reasons, thus, to interfere with the impugned judgment and order passed by the learned Single Judge dated 22.08.2016.

11. The present Letters Patent Appeal stands disposed of.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Praveen-II/-

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