

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1663 of 2019

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Koushalya Devi @ Koshila Devi Wife of Jano Paswan, resident of Village-
Hardia, P.S.- Choutham, District- Khagaria.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Food and Civil Supply Bihar Govt. Patna, Bihar.
2. The District Magistrate, Khagaria.
3. The Sub-Divisional Officer, Khagaria Sadar, District- Khagaria.
4. The Block Supply Officer, Block Choutham, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Pd. Singh
For the Respondent/s : Mr.Arvind Ujjwal (SC4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-02-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

The petitioner is aggrieved by the order dated 26.10.2018 as contained in Annexure-6 passed by the Collector – cum – District Magistrate, Khagaria in Supply Appeal Case No. 14/2018 by which the appeal preferred by the petitioner has been rejected on the ground of limitation alone.

On perusal of the impugned order, it appears that the license of the PDS shop of the petitioner was cancelled as back as on 07.03.2009. The Supply Appeal No. 14/2018 was filed on 15.10.2018, i.e., after a delay of approximately nine years six months. In these conditions, the appellate authority refused to entertain the appeal and dismissed the same on the ground of



limitation. The statutory period for filing appeal against order of cancellation is 30 days.

Learned counsel for the petitioner submits that in fact the petitioner had preferred an appeal in the year 2009 itself but because in the year 2012 there was a fire in the office of the District Magistrate, all the records were burnt in the said fire and got destroyed.

Learned counsel further submits that in fact learned counsel who was representing the petitioner in the appeal also died as a result thereof the petitioner did not get back his file showing the number of appeal and the date of the proceedings. It is submitted that in these circumstances the Collector – cum – District Magistrate was not justified in rejecting the appeal on its own merit.

On the other hand, learned counsel representing the State submits that the petitioner is indulged in taking a frivolous plea for purpose of maintaining her appeal before the Collector. It is submitted that there is no material at all even to prima facie indicate that at any point of time prior to filing of the present appeal, the petitioner had preferred appeal before the Collector – cum – District Magistrate, Khagaria.

Learned counsel submits that the plea of the



petitioner, if accepted at this stage after lapse of about 10 years from the date of passing of the order by the Sub-Divisional Officer, it will give rise to a dispute which has already been settled by efflux of time and has died in natural course. It is submitted that the writ application is fit to be dismissed in the facts and circumstances of the case.

Having heard learned counsel for the parties and on perusal of the records, this court is convinced that the petitioner has no material at all in her hand to show even prima facie that she had preferred an appeal against the order dated 07.03.2009 passed by the Sub-Divisional Officer, Khagaria. The plea that she had filed an appeal in the year 2009 itself and the records of that appeal got destroyed in the year 2012 cannot be accepted, as these are the mere bald plea of the petitioner without there being any material to support the same. This, in the opinion of the court no way justify filing of appeal in the year 2018.

This court agrees with the submission of learned counsel for the State that such huge delay cannot be condoned without there being any cogent reason in support of condonation of delay. Learned counsel further relies on a judgment of the Hon'ble Supreme Court in the case of **Binod Bihari Singh Vs. Union of India** reported in (1993) 1 SCC 572 in which the



Hon'ble Supreme Court has held that the statute of limitation is a statute of repose and confidence because it brings an end to an issue. Such issues cannot be allowed to continue ad-indefinitum.

This court, thus, finds no reason to set aside the impugned order. The writ application has no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

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