

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2248 of 2019

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Bijay Kumar Sharma son of Late Ramji Lal Sharma, Resident of Mohalla -
Hariganj (Patel Chowk), P.O. and P.S. Katihar, Distt. Katihar

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Katihar
2. The Bihar State Food and Civil Supplies Corporation Ltd. through its
Managing Director, Daroga Rai Path, Patna
3. The Managing Director, Bihar State Food and Civil Supplies Corporation
Ltd. Daroga Rai Path, Patna
4. The Bihar District Manager, Bihar State Food and Civil Supplies
Corporation Ltd. Katihar
5. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd
Kishanganj.
6. The Block Supply Officer, Barsoi Block Under the District of Katihar
7. The Block Supply Officer, Salmari Block Under the district of Katihar
8. The Block Supply Officer, Azam Nagar Block under the District of Katihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Md. Waliur Rahman, Advocate
		Mr. Pawan Kumar Singh, Advocate
For the BSFC	:	Mr. Shailendra Kr. Singh, Advocate
For the Respondent/s	:	Mr. Anwar Karim, A.C. to S.C.4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-04-2019 The petitioner in this case has moved this court for a

direction to the respondent authorities to make payment of a

sum of Rs. 12,18,192.08 which the petitioner claims to be an

admitted payment under an agreement dated 19.10.2018 for

transportation of food-grains in the year 2008-09 along with the

penal as well as statutory bank interest.

Learned counsel for the petitioner submits that

petitioner was pursuing his request for payment with the



authorities concerned during all these years. It is submitted recently in the year 2017 the security money of the petitioner has been refunded. Learned counsel submits that this court should issue a direction to the respondent authorities to pay the pending bills of the petitioner.

On the other hand, learned counsel for the Bihar State Food and Civil Supplies Corporation Limited submits that this writ application is fit to be dismissed on the ground of delay and laches alone. It is submitted that the petitioner has filed this writ application for a pure and simple money claim. It is submitted that the alleged transportation work is said to have taken place during the period 2008-09 i.e. about 11 years ago. Nothing is there on the record to show that at any point of time the respondents have acknowledged the alleged dues of the petitioner, therefore, in absence of there being any acknowledgment on the part of the respondent authorities, even if there was any claim of the petitioner, the remedy for realization of the money claim has become barred by limitation. It is further submitted that the remedy under Article 226 of the Constitution of India cannot be allowed to be invoked by the petitioner whose common law remedy for realization of money has already become barred by limitation.



Considering the facts and circumstances of the case, this court finds force in the submission of learned counsel for the respondents. On record, there is no material to show that at any point of time the alleged dues of the petitioner was admitted by the respondents. The agreement under which the claim has been raised by the petitioner is of the year 2008-09. This writ application has been filed for a pure and simple money claim after about 11 years when the common law remedy has already become barred by limitation.

In such circumstances, this court is not willing to exercise its discretionary power under Article 226 of the Constitution of India to entertain the writ application. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

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