

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1403 of 2018

In

Civil Writ Jurisdiction Case No.7994 of 2018

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1. The Bihar State Food and Civil Supplies Corporation Ltd. Through its M.D. Bihar, Patna
 2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Bihar, Patna.
 3. The Chief of Finance, Bihar State Food and Civil Supplies Corporation Limited, Bihar, Patna.
 4. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, Bhojpur at Ara

... .. Appellant/s

Versus

1. Parmanand Singh Son of late Dharikshan Singh Resident of Village - Sri Rampur, P.O. Kasap, P.S. Udwant Nagar, District- Bhojpur.
2. The Food and Consumer Protection Department through the Principal Secretary, Bihar, Patna.
3. The State of Bihar through District Magistrate, District- Bhojpur at Ara.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anjani Kumar, Sr. Advocate

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-12-2019

Re: I.A. No. 7581 of 2018

Heard learned counsel for the appellants and learned counsel for the respondents.

2. The appeal is reported to be delayed by 137 days.

3. We have considered the affidavit filed in support of the delay condonation application and we find that sufficient



cause has been shown to condone the delay in filing the appeal. The delay is condoned and the appeal shall be treated to be within time.

4. I.A. No. 7581 of 2018 stands allowed accordingly.

Re: L.P.A. No. 1403 of 2018

The present Memo of Appeal has been preferred against the judgment dated 11.05.2018 passed by a learned Single Judge of this Court in C.W.J.C. No. 7994 of 2018, titled as Parmanand Singh Vs. The Food and Consumer Protection Department through the Principal Secretary, Bihar, Patna & Ors.

2. In the Memo of Appeal, the appellants have made the following averments:-

“2. That the impugned judgment and order passed by Hon’ble Single Judge without any opportunity of filing counter affidavit and directed to appellant consider the writ petitioner’s claim and admitted payment to pay within a period of six weeks and further directed to any delay in payment of the admitted amount beyond the stipulated period, entitle the petitioner to receive payment together with simple interest at the rate of 6% per annum the admitted dues calculated from the date of when the amount became due till the date of its actual payment.

3. That it is submitted that all transporting cum Agent Bill (Admitted) has already paid to writ petitioner’s before filed a writ petition.



4. That the writ petitioner has filed writ application “for direction to Respondent authorities to make payment at the revised rate of the handling bill of location Sahar of Rs. 11,74,605-20 of Location SFC, Sandesh total Rs. 9,11,698.62/- of Location Agion total Rs. 8,16,169.44/-, of Location Girhani Total Rs. 5,76,664.74/-, for month August-September, 2011-12 Rs. 3,62,692.12/-, for month December, 2011 & January to March 2012 Rs. 8,30,431.41/- for month October-November, 2011 Rs. 3,93,672.81/- for month March, April, May 2012 Rs. 19,35,669.27/- for month June, 2012 Rs. 4,97,310.73/- for month July, 2012 Rs. 4,39,557.72/- from different SFC to different rice millers of Rs. 42,39,978.68/- for lifting rice from different rice millers Rs. 17,60,398.20/-, for lifting wheat from different SFC godown to the SFC Ara R. 4,03,117.33/- in the light of the direction passed by the Hon’ble Patna High Court in C.W.J.C. No. 18226 of 2012 (Annexure-p2/A) and also in light of Annexure-2 of the petitioner of the procurement year 2011-12 and further pray for in the nature of mandamus for a direction to the respondent authorities especially the B.S.F.C. to make the payment of the revised rate of total Rs. 1,84,37,130/- in the light of the work done by the petitioner of the handling work in the District of Bhojpur at Ara for the year 2011-12 with 12% interest.

5. That the writ petitioner has entered into an agreement with District Manager, SFC Bhojpur for Transporting cum handling Agent work in the District



of Bhojpur, Ara (Annexure-1 to writ petition).

6. That as per violation of Clause 13 of Agreement and Udwant Nagar P.S. Case No. 154 of 2012 dated 20.07.2012, the competent authority has terminated the Agreement and issued show cause vide letter No. 6500 dated 31.07.2012 for forfeited Security amount and Bank guarantee with Black listing.

7. That it is submitted that petitioner's agreement tenure only one year (Clause 14 of Agreement and agreement executed on 20.10.2011 by writ petitioner).

8. That one writ petition in C.W.J.C. No. 18226 of 2012 has decided by Hon'ble High Court, Patna vide order dated 01.10.2012 regarding implementation of Revised minimum wages concerned to labour.

9. That the competent authority i.e. Managing Director, BSFC, Patna obeyed the aforesaid direction by Hon'ble Court and issued vide notification No. 9538 dated 14.12.2012 and directed to all District Manager S.F.C. to pay revised minimum wages to Transporting cum handling Agent w.e.f. 11.10.2010, 01.10.2011 and 01.04.2012 and the appellants have obeyed the aforesaid letter and pay revised handling charge to transporter.

10. That the Managing Director, BSFC, Patna has issued another Notification vide memo no. 775 dated 25.01.2013 regarding constituted a committee handed by District Magistrate and directed



to all labours and transporter, those are not received different handling charge after Revised minimum wages and produce relevant documents, showing these labour are worked claim period before committee. After recommendation by committee, then the District manager SFC in concerned District shall pay different amount to labour/Transport cum handling Agent.

11. That after issued aforesaid notification, the writ petitioner's has neither appeared nor filed claim before District Committee headed by District Magistrate, Bhojpur regarding payment of difference wages to actual labours, those are worked in claim period.

12. That the writ petitioner has neither followed the Notification No. 775 dated 25.01.2013 nor appeared or filed claim before District Committee till today.

13. That the Hon'ble Single Judge has considered writ petition and without any opportunity to file counter Affidavit disposed of writ direction Respondent authority to pay difference amount to writ petitioner. But that difference amount has not pay to engaged labours by writ petitioner.

14. That the appellants respectfully state and submit that the impugned judgment and order requires interference by this Hon'ble Court in public interest and is fit to be set aside."



3. We find the impugned order not to have adjudicated the rights of any one of the parties. All that is directed is consideration of writ-petitioner's request as and when received along with interest at the rate of 6%.

4. We clarify that the time for complying with the directions of this Court is extended by six months.

5. The Letters Patent Appeal is accordingly disposed of.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2019
Transmission Date	

