

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2988 of 2019**

Smt. Poonam Agrawal, W/o. Shri Gopal Agrawal, Aged About 36 Years,
Proprietor Shri Maruti Rice Mill, R/o. Village Dhurkot, Tahsil Dabhara, District
Janjgir Champa, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of Co-Operative, Mantralaya, Mahanandi Bhawan, Atal Nagar, District Raipur Chhattisgarh
2. The District Marketing Officer, Janjgir, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Kamal Kishor Patel, Advocate

For State/Respondents : Mrs. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****03.10.2019**

Heard

1. Grievance of the petitioner is that a Bank Guarantee of Rs. 45 Lakhs was submitted to the District Marketing Officer/ Respondent No.2, however, since there was a breach of agreement and the petitioner could not lift 2100 Quintals of Rice, therefore, the entire Bank Guarantee of Rs. 45 Lakhs was encashed. It is contended that the amount of Rs.8,21,863/- was recovered over and excess of the recoverable amount. It is stated that in the earlier round of litigation, the Division Bench of this Court in Writ Appeal No.504 of 2017 has directed to reconcile the issue and thereafter after enquiry it was found that because of fault of the officer, excess amount was recovered and the amount was returned however no interest is paid for the period which is more than three years.
2. Primarily, the petition is for the claim of interest. If such contention of the petitioner are accepted, in order to establish the fact loss has caused, the

petitioner has to establish those facts before the Court of law. The statement of the petitioner cannot be accepted as proved factor that the petitioner has sustained loss. It is a different issue that the Bank Guarantee has been reconciled as against the amount recoverable from the petitioner, the same will not give rise to claim the interest in the instant petition. The issue requires necessary evidence and proof of certain facts thereby disputed question of fact are involved. The factum of limitation for claim would also be an important aspect. The petitioner, if so aggrieved, may file a civil suit before the competent Court subject to claim of limitation.

3. In view of foregoing, I am not inclined to entertain the instant petition only for the purpose of interest. Accordingly, it is dismissed.

Sd/-
Goutam Bhaduri
Judge