

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 22075 of 2019**

Imarat-E-Shariah (Bihar, Orissa and Jharkhand) Phulwarisharif, P.s.- Phulwari Sharif, Distt.- Patna through its Acting Secretary, Md. Shibli, Male, Aged about 47 years, son of late Md. Shamshad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Labour Resource, Govt. of Bihar, Patna
2. The Labour Commissioner-cum-Appellate Authority (under the payment of Gratuity Act, 1972), Department of Labour Resource, Govt. of Bihar, Patna-800001
3. The Deputy Labour Commissioner-cum-Controlling Authority (under payment of Gratuity Act, 1972) Patna Division, Patna-800001
4. Md. Nayeem Akhtar S/o Md. Hali Resident of Mohalla- Isanagar, Nala Par, Naya Tola, Phulwarisharif, P.s.- Phulwarisharif, Distt.- Patna, Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr Dhanendra Chaubey, Advocate  
For the Respondent/s : Mr Rakesh Prabhat, AC to SC XXI

**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL ORDER**

**2      21-01-2020**                      Heard learned counsel for the petitioner and the respondent-State.

The petitioner is before this Court assailing the order dated 30.07.2019/31.07.2019 passed by the Labour Commissioner -cum- Appellate Authority in Appeal Case No 1 of 2019. The order under consideration is under the Payment of Gratuity Act, 1972 (for brevity, *the Act*). The appeal of the petitioner has been dismissed for non-compliance of the mandatory requirement of sub section (7) of Section 7 of the



Act. The same mandates deposit of the Gratuity amount determined by the Controlling Authority for consideration of appeal. The petitioner was aggrieved by the order of the Controlling Authority. He disputes the liability as well as the determination.

State has filed a counter affidavit. Specific stand of the State is that the issue regarding correctness of the order of the Controlling Authority has not been adjudicated upon by the Appellate Authority. The same has been dismissed on account of the appeal being defective and in violation of sub-section (7) of Section 7 of the Act as the appellant has not deposited the Gratuity amount. The order, therefore, having regard to the decision of this Court in the case of *Muzaffarpur Zila Khadi Gramudyog Sangh -Versus- State of Bihar & Others*, in the two cases arising out of CWJC No 17476 of 2016 and CWJC No 17597 of 2016, does not require any interference.

Having considered the submission of the parties, this Court is also of the view that for non-compliance of the mandatory provisions of law, the appeal was defective and has rightly been rejected by the Appellate Authority. There is no infirmity in the order of the Appellate Authority. The writ petition, being devoid of merit, is dismissed.



Learned counsel submits that the petitioner would be approaching the Controlling Authority for due compliance of the provisions contained in sub section (7) of Section 7 of the Act.

In view of such submission, the petitioner is granted liberty for the same, which has to be considered in accordance with law.

**(Madhuresh Prasad, J)**

**M.E.H./-**

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

