

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5575 of 2020

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Baiju Sah @ Baijnath Sah Son of late Ramavtar Sah, Resident of Sarairanjan,
P.S. Sarairanjan, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector Cum District Magistrate, Samastipur.
3. The District Supply Officer, Samastipur.
4. The Sub- Divisional Officer, Samastipur.
5. The Block Supply Officer, Sarairanjan, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bhola Prasad, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-11-2021

Heard learned counsel for the parties.

The order impugned is reproduced as under:-

“This confiscation appeal is fixed for order on the point of Limitation filed under Section 5 of the Limitation Act.

Heard learned counsel on behalf of the appellant and the learned Spl. P.P. for the State.

Learned counsel on behalf of the appellant submitted that appellant’s wheat and rice was seized,

case was lodged under Section 7 of the E.C. Act and accordingly he was arrested and remanded to judicial custody, but in the meantime, Collector Samastipur started the proceeding under Section 6A of the E.C. Act and when he was in custody, in the meantime, Collector passed the order so, he had no knowledge about the proceeding. He has further submitted that the Hon'ble High Court Patna has quashed the order of cognizance order dated 2.08.2007 through order dated 12.05.2010 passed in Cr. Misc. No.9668 of 2008 which has been received by the learned S.D.J.M. Samastipur on 30.08.2010 thereafter appellant roaming for advice from the Advocates in Superior Court, who advised him for filing appeal before this court against the order of Collector, Samastipur then after he filed Chircuit for obtaining certified copy of the order of learned Collector and filed this appeal. In view of the submission learned counsel prayed to condone the delay in filing of this appeal.

Learned Spl. P.P. opposed the appellant's contention and submitted that this appeal is highly time barred so, it is not maintainable.

The impugned order has been passed by the Collector on 11.12.2008 whereby he has confiscated the seized 40 quintals rice and 69 quintals wheat in favour of the government. Appellant had already challenged cognizance order dated 23.08.2007 before the Hon'ble Court through Cr. Misc. No.9668 of 2008 passed in Sarairanjan P.S. Case No.70 of 2007 by Addl. C.J.M. Samastipur. The Hon'ble High Court, Patna has passed order on 12.05.2010 and quashed the cognizance order. Thus, appellant has full knowledge of quashing of cognizance order even though he did not file the petition before the Collector for the return of seized wheat and rice or price thereof (Sale

proceed) under Section 6A (3C).

Despite full knowledge of setting aside the cognizance order against him appellant did not prefer appeal for nearly seven years. Under Section 6C which provides for appeal, there is limitation that appeal may be brought within one month from the date of communication to him of such order. In the instant case Collector has passed order on 11.12.2008, but appellant has not brought the appeal against this order for nine years. He had got opportunity to bring the appeal further after setting aside of the cognizance order even then he did not prefer appeal for seven years so, this appeal is highly time barred, as such, it is hereby dismissed on the point of limitation due to highly time barred.”

The appeal preferred by the petitioner stands dismissed on ground of delay and laches.

It was delayed by more than 7 years, even now, the instant petition suffers from same vice, which stands filed after three years, as such, we see no reason to interfere with the impugned order, more so, when the present proceeding relates to institution under the provision of EC Act and not under the Penal Code.

The original proceeding stood initiated in the year 2007 and the issue stands settled with respect to 40 quintals of rice and 69 quintals of wheat which may have perished by now, is agitated in the year 2020.

The petition stands dismissed.

Interlocutory application, if any, shall also stand disposed
of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.11.2021
Transmission Date	NA