

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9744 of 2021

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Indra Narayan Mishra Son of Late Rama Nand Mishra resident of village and P.o.- Bar Majhiya, P.s.- Kanchanpur, District- Sapatari (Nepal), Retired from the post of Junior Engineer under Irrigation Division, Murliganj, Madhepura, District- Madhepura (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna
3. The Engineer in Chief, Water Resources Department, Government of Bihar, Patna
4. The Under Secretary (management) Water Resources Department, Government of Bihar, Patna
5. The Chief Engineer Water Resources Department, Saharsa, District- Saharsa
6. The Superintending Engineer, Irrigation Circle Punia, District- Purnia
7. The Executive Engineer, Irrigation Division, Murliganj, Madhepura

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amrit Abhijat
	:	Mr. Sunil Kumar Pandey
	:	Mr. Manoj Kr. Gupta
For the Respondent/s	:	Mr. Anjani Kumar, AAG 4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 18-02-2022

The matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. State counsel accepts notice for respondents.

3. Counsel for the petitioner is hereby directed to serve copy of the petition to the counsel for the State/respondents, if it is not already served.



4. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) To issue a writ in the nature of mandamus directing/commanding the Respondents and in particular Respondent No. 3 namely the Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna to make payment of interest amount for the period from September, 2012 to July, 2015 to 26.03.2020 with regard to illegally recovered amount of Rs. 4,31,512/- recovered between the period from September, 2012 to July, 2015 as the principal amount has been paid without interest on 26.03.2020.

(ii) To issue a writ in nature of mandamus commanding/directing the Respondents and in particular the Respondent No. 1, the Chief Secretary, Government of Bihar, Patna to take suitable action against erring officers who in their colourable exercise of power with malafide intention harassed the petitioner by instituting false departmental proceeding as well as wrong F.I.R and also against officers who illegally reviewed his earlier order cancelling exoneration of petitioner.

(iii) To issue a writ in the nature of mandamus of commanding/directing the Respondents to make payment of compensation amount to the petitioner for mental and physical harassment as well as for lowering his image in public.

(iv) And/or for any other relief/reliefs which this Hon’ble Court may think fit and proper in the facts and circumstances of this case.”

5. Earlier petitioner filed C.W.J.C. No. 11462 of 2012 and it was decided on 14.07.2015. In the first prayer it is sought as under:

“1(i) To issue a writ in the nature of certiorari setting aside the order dated 19.03.2012 contained in letter No. 09/HQ-067-048/2009 145 issued from the office of Respondent No. 3, Under Secretary (Management) directing the Respondent No.8, the Executive Engineer, Irrigation Division,



Murliganj, Madhepura to initiate Departmental Proceeding because of accomplishment in theft of boulder 231.064 M3 with a further direction to recover an amount of Rs. 4,31,512/-, the value of stolen Nepali boulder.”

6. The petitioner has a cause of action in claiming interest on the recovered amount of Rs. 4,31,512/- in C.W.J.C. No. 11462 of 2012 itself whereas he has failed to claim interest in earlier litigation. Further, this Court while deciding the matter on 14.07.2015 has not made any observation reserving liberty to the petitioner to approach the respondent in seeking interest along with recovered amount.

7. In the light of above facts and circumstances and the fact that the petitioner has been paid principle amount of Rs. 4,31,512/-, question of entertaining the present petition for payment of interest is not warranted.

8. Accordingly, the present petition stands dismissed.

9. At this stage, learned counsel for the petitioner insisted that cause of action in seeking interest would arise as and when principle amount is paid, the same is hereby rejected for the reasons that he is aware of the fact that certain amount has been recovered from him and he had presented the litigation in respect of principle amount. At the same time he should have sought for interest along with principle amount, therefore, cause of action



accrued in respect of interest as on the date of filing earlier
petition.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	23.02.2022
Transmission Date	

