

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2413 of 2023

Sanjay Kumar, Son of Ramadhar Singh, Resident of Village- Andouli, P.S.-
Chewara, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The Chief Engineer, Rural Works Department, Govt. of Bihar, Patna.
2. Superintendent Engineer, Rural Works Department, Works Anchal, Munger.
3. Executive Engineer, Rural Works Department, Works Division, Sheikhpura.
4. Assistant Engineer, Rural Works Department, Works Division, Sheikhpura.
5. Junior Engineer, Rural Works Department, Work Section, Sheikhpura.
6. Assistant Engineer, Rural Works Department, Works Division, Ariyari.
7. Junior Engineer, Rural Works Department, Work Section, Ariyari

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Madhav Raj, Advocate
For the Respondent/s : Mr. Kumar Alok (SC7)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 28-02-2023 In the instant petition, petitioner has prayed for the
following reliefs:-

(A) A writ in the nature of CERTIORARI or any other appropriate writ, order/s, direction/s quashing the following:-

I. The letter issued by Chief Engineer; the Respondent No. 1 on 02.06.2016 being letter No. 6777 to the extent against Serial No. 153, 154, 155 and 181 whereby and where under the Petitioner is declared as defaulter and debarred to take participate in next tender due to the reason that the allotted works were not completed within the agreed times.

(B) A writ in the nature of MANDAMUS or any other appropriate writ/s, order/s, direction/s commanding the Respondents for the following:

i. To hold the order contained in Annexure-1 to



*be nullity and non-est in the eye of law,
ii. To direct the Respondents to delete the name of the Petitioner from debarred list which is mentioned against Serial No. 153, 154, 155 and 181 as contained in Annexure- 1 to the Petition.
iii. To direct the Respondents to consider the Petitioner to be fully eligible to take part in the present/next tender.*

Having regard to the relief sought in the present petition, the petitioner had cause of action in the year 2016 whereas the petition is filed in the year 2023. Further, it is to be noticed that petitioner has been debarred for the next tender process and it is not for indefinite period.

In the light of these facts and circumstances, the present petition is liable to be dismissed on the ground of delay and laches. At this juncture, it is necessary to take note of the Apex Court decision in the case of ***State of J&K v. R.K. Zalpuri, (2015) 15 SCC 602***. Para 20 reads as under:-

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corpn.v. Dosu Aardeshir Bhiwandiwalla [City and Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwalla, (2009) 1 SCC 168], wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus: (SCC p. 175, para 30)

“30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;



- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) ex facie barred by any laws of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

Under line supplied

One of the principles laid down by the Apex Court in the cited decision before entertaining any writ petition is that the Court has to take note of delay and latches issue as well.

Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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