

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.109 of 2018

1. The State Of Bihar and Ors
2. The Engineer-in-Chief, Water Resources Department, Sinchai Bhawan, Bihar, Patna - 800001.
3. The Chief Engineer, Water Resources Department, Sinchai Bhawan, Bihar, Patna - 800001.
4. The Superintending Engineer, Water Resources Department, Waterways Circle, Biharsharif, Nalanda - 8
5. The Executive Engineer, Water Resources Department, Waterways Circle, Biharsharif, Nalanda - 803101.

... .. Petitioner/s

Versus

Santosh Kumar Son of Sri Rameshwar Prasad Resident of Quamruddinganj,
P.O. - Biharsharif, P.S. - Laheri, Murarpur, District - Nalanda - 803101, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Ac To Aag 4
For the Respondent/s	:	Mr. Manish Sahay, Advocate
		Mr. Anil Kumar Sinha, Advocate
		Mr. Siddharth Aditya

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

5 25-07-2024

Re: I.A. No. 5746 of 2018

This application has been filed for condoning the delay of 1 year 3 months and 20 days in filing the instant Civil Revision application.

2. Learned counsel for the petitioner submitted that the instant Civil Revision application has been filed against award dated 10.01.2017 passed by the Learned Chairman and Member of Bihar Public Works Contract Disputes Arbitration Tribunal in Reference Case No. 117 of 2012.



3. It is further submitted that after getting the knowledge of order dated 10.01.2017 passed in Reference Case No. 117 of 2012 on 14.02.2017, the dealing assistant endorsed the file to Section Officer with note that a direction may be issued to the Chief Engineer to make available statement of facts regarding filing of Civil Revision application. Thereafter, the file moved up to Joint Secretary on the same day by the dealing assistant on 08.03.2017. Thereafter, the file moved to Section Officer on the same day and he endorsed the file to Joint Secretary and at last the file was placed before the Principal Secretary and on 29.03.2017, the Principal Secretary approved the draft and sent the file to law department on 31.03.2017 and thereafter, file was received by the law department on 06.04.2017 and Secretary-cum-Legal Remembrance sent the file to learned Advocate-General on 06.04.2017 for his opinion. The learned Advocate-General sent the file for his opinion regarding filing of revision to AAG-4 on 07.04.2017.

4. Learned counsel for the appellant further submitted that a draft had been prepared in the office of the AAG-4 for filing Civil Revision on 08.05.2017. The said Civil Revision application has been prepared after typing on 17.05.2017 and thereafter annual vacation started from 22.05.2017. It is further



contended that the typist lost the draft and did not communicate the same to the office of AAG 4 and in meanwhile, the file was unfortunately got tied up with other files. The department approached the AAG 4 on 01.05.2018 and requested to give the status of the case then it came to knowledge of the AAG 4 that file has been misplaced and thereafter the file was searched and found on 14.05.2018. Thereafter, again a draft has been prepared for filing the civil revision and it became ready on 18.05.2018 and department was informed to send someone to swear oath so that the civil revision may be filed. After the vacation the department has authorized Executive Engineer, Water Resource Department, Water Way Circle, Biharsharif, Nalanda to take oath and he came on 22.06.2018 to take oath and thereafter, this Civil Revision Application has been filed on 30.07.2018.

5. Learned counsel for the appellant further submitted that there is no deliberate laches on the part of the petitioner rather some delay has occurred because of some necessary official formality.

6. On notice, learned counsel for the opposite party appeared and filed his counter-affidavit.

7. Learned counsel for the opposite party submitted that after receiving certified copy of said award the opposite



party has given his representation to the Executive Engineer on 23.01.2017 alongwith certified copy of said award dated 10.01.2017 and requested him to comply the same. Office of the Executive Engineer received the representation on 23.01.2017. It is further submitted that after receiving the photocopy of the certified copy from the opposite party, the petitioner filed requisition for certified copy on 18.07.2018 which was supplied on 23.07.2018. The said application for obtaining certified copy of the award was filed after lapse of about 6 months.

8. Learned counsel for the opposite party has relied upon a decision of this court in the case of **State of Bihar and Ors Vs. The Trimurti Construction** passed in **Civil Revision No. 48 of 2015** *vide* order dated **23.09.2015** whereby, the Hon'ble Court was pleased to dismiss the limitation petition where petitioner had failed to give cogent explanation for delay of 9 months and 26 days in filing the Civil Revision application.

9. Learned counsel for the opposite party also relied upon a decision of the Hon'ble Supreme Court in the case of **Postmaster General & Ors Vs. Living Media India Ltd. and Anr** reported in **2012 (3) SCC 563** in order to emphasize that the State and its officers cannot be treated differently while considering the prayer for condonation of delay.



10. Reliance has also been placed on the judgment in the case of **State of Bihar through the Principal Secretary, Water Resources Department and Ors Vs. Kems Services Pvt. Ltd.** passed in **C.R. No. 157 of 2018** in which this Court relying on the aforesaid decision has denied the condonation of delay of 175 days in filing the Civil Revision and also in view of the ratio decided in **Postmaster General Vs. Living Media India Ltd. (Supra)** whereby, the Hon'ble Court dismissed the application holding that the petitioners have miserably failed to give any acceptable and cogent reason which may be sufficient to condone the delay of 175 days.

11. Having considered the facts and circumstances and averments made in the interlocutory application. It is apparent that there was delay at every stage and there is no cogent reason except mentioning the date of movement of files . The certified copy of the said award dated 10.01.2017 was applied on 18.07.2018 and the same was received on 23.07.2018. There is no explanation for not applying for the certified copy of the impugned award dated 10.01.2017 within a reasonable time while the opposite party had already provided information about the award dated 10.01.2017 through his representation dated 23.01.2017 by filing photocopy of the



certified copy of the said award. There is no plausible explanation and sufficient reason to condone such a huge delay of 1 year 3 months 20 days in filing the application.

12. Accordingly, the limitation petition bearing I.A. No. 5746 of 2018 is dismissed having no merit in it.

13. Consequently, upon dismissal of limitation petition, this Civil Revision application is also dismissed as time barred.

(Khatim Reza, J)

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