

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11106 of 2023**

Harishankar Sah, aged about 78 years, Male, Son of Late Tulsi Sah, Resident of Village- Simraha, Ward No. 35, P.S. and District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Koshi Division, Saharsa.
3. The District Collector, Saharsa.
4. The Assistant Labour Commissioner, Saharsa, District- Saharsa.
5. The Sub Divisional officer-cum- Certificate Officer, Saharsa, P.S.- Saharsa, District- Saharsa.
6. The Anchal Adhikari -cum-certificate officer, Anchal Kahra, P.S.-Saharsa, District- Saharsa.
7. Madan Singh @ Madan Mohan Singh, Son of Late Ram Prasad Singh, Resident of Azad Chowk, Gangjala, Ward No. 18/9 Saharsa, P.S.-Saharsa, District- Saharsa.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Ashwani Kumar Tiwary, Advocate.  
For the Respondent/s : Mr. Rishi Raj Sinha, SC-19.

**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**  
**ORAL ORDER**

11    22-11-2024                      Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

*“....for issuance of a writ in the nature of mandamus for directing the respondents (Authorities) to take proper step through the certificate proceeding for the payment of the amount of labour cost and compensation Rs. 16,000/- as granted by the Assistant Labour Commissioner, Saharsa vide M.W. Case No. 152/2001 on 31.01.2003 along with upto date interest at*



*the rate of 9% per annum and litigation cost which comes to Rs. 2,56,000/- approx (amount Rs. 16,000/- to be double after every five years) + litigation cost Rs. 50,000/- total Rs. 3,06,000/- to be realized from respondent No. 7 Madan Singh @ Madan Mohan Singh which Madan Mohan Singh had taken the service of petitioner and his team as labourer but refused to pay the labour cost and compelled the petitioner to move before Labour Court in 2001 and till then petitioner is being left to run from the pillar to post even through the respondent No. 7 moved CWJC No. 2500 of 2011 against the order passed by executing authority and the same was dismissed vide order dated 21.07.2016 against that the Respondent No. 7 also moved L.P.A. No. 1649/2016 which was also dismissed on 24.09.2019 but till date the order of the Assistant Labour Commissioner, Saharsa dated 31.01.2003 passed in M.W. Case No. 152/2001 has not been executed causing irreparable loss and mental agony and stress to a poor labourer (the appellant).”*

3. It is the case of the petitioner that he was employed by the Respondent No. 7 but the Respondent No. 7 did not pay the wages properly to the petitioner. Thereafter, the petitioner has approached the Assistant Labour Commissioner, Saharsa vide M.W. Case No. 152 of 2001 ventilating his grievance. That the Assistant Labour Commissioner, Saharsa vide order dated 31.01.2003 has passed an award directing the Respondent No. 7 for paying a sum of Rs. 16,000/- to the petitioner. That in spite



of the award being passed, the Respondent No. 7 failed to pay any amount and therefore the petitioner left with no other alternative has filed certificate case before the Certificate Officer-cum-Sub-Divisional Officer, Saharsa. That the Certificate Officer vide order dated 16.08.2005 has ordered the Respondent No. 7 to pay an amount of Rs. 16,000/- within a period of 30 days. That as against the order passed by the Certificate officer in Certificate Case No. 1/2003-2004 the Respondent No. 7 has preferred a Certificate Appeal before the Collector, Saharsa and the same was dismissed on 07.04.2006. Thereafter the Respondent No. 7 has filed a Revision No. 9 of 2006 before the Divisional Commissioner, Koshi Division, Saharsa which was also dismissed on 07.12.2010. That the Respondent No. 7 has thereafter filed CWJC No. 2500 of 2011 before this Hon'ble Court which was dismissed on 21.07.2016 holding that the petitioner is liable to pay the above mentioned amount. Thereafter, the Respondent No. 7 has filed LPA No. 1649 of 2016 which was also dismissed on 24.09.2019. Though the Respondent No. 7 lost in all the forums and the cases filed by him and the order passed by the Assistant Labour Commissioner, Saharsa in M.W. No. 152 of 2001 has become final, the Respondent No. 7 failed to pay the awarded amount.



Therefore the petitioner left with no other alternative remedy has approached this Hon'ble Court. After issuance of notice, Respondent No. 7 has entered his appearance and filed his counter affidavit. In the counter affidavit, the Respondent No. 7 has not denied the earlier round of litigation between the petitioner and the Respondent No. 7, however, legally untenable grounds have being raised even going to the extent of saying that the petitioner had only worked for five days and that the case was filed against a wrong person. That the petitioner has already filed an application before the Certificate Officer-com-Sub-Divisional Officer, Saharsa for realization of the certificate amount of Rs. 16,000/- along with 9% interest and therefore the present writ petition is not maintainable.

4. Irrespective of the fact whether the petitioner has approached the Certificate-cum-Sub-Divisional Officer, Saharsa for realization of the certificate amount of Rs. 16,000/- along with 9% interest or not, the fact remains that the order passed by the Assistant Labour Commissioner, Saharsa vide M.W. Case No. 152 of 2001 has attained finality. The orders passed in the certificate proceedings have also become final and it is pertinent to observe that the Respondent No. 7 has lost in the appeal as well as the revision filed by him. Further, the CWJC filed by the



Respondent No. 7 was also dismissed and the LPA filed by him against the orders of the CWJC also stood dismissed. The Respondent No. 7 having lost all the forums cannot now reagitrate the issues which were already dealt with and refuse to pay the amounts due to the petitioner on one pretext or the other. Therefore, this Court is inclined to allow the present writ petition, the Respondent No. 7 shall pay the amount of Rs. 16,000/- along with simple interest of 6% per annum from the date of the award i.e. 31.01.2003 till the date of actual payment. The Respondent No. 7 shall pay the above mentioned amount within a period of four weeks from today.

5. With the above directions, the present writ petition is allowed to the extent indicated.

**(A. Abhishek Reddy, J)**

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