

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1799 of 2024**

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Rajbali Pandey Son of Late Ramprasad Pandey, Resident of Village-  
Laxmipur, P.O.- Laxmipur, P.S.- Pirpanti, District- Bhagalpur, Bihar-813222.

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Road Transport and Highways, Transport Bhawan, 1, Parliament Street, New Delhi-110001.
2. The Secretary, Road Transport and Highways, Government of India.
3. The National Highway Authority of India, through its Chairman, G-5 and G-6, Sector-10, Dwarka, New Delhi- 110075
4. The Chairman, National Highway Authority of India, G-5 and G-6, Sector-10, Dwarka, New Delhi-110075.
5. The General Manager, The National Highway Authority of India, Regional Office, Bihar, S.K. Puri, Patna -800001.
6. The State of Bihar, through the Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
7. The Commissioner-cum-Learned Arbitrator, Bhagalpur Division, Bhagalpur.
8. The District Magistrate, Bhagalpur.
9. The District Land Acquisition Officer, Bhagalpur.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Kumar Kaushik, Advocate<br>Mr. Ujjawal Bhushan, Advocate      |
| For the Respondent/s | : | Mr. Bijoy Kr. Sinha, AC to AAG-V                                  |
| For the NHAI         | : | Mr. Sriram Krishna, Advocate<br>Mr. Prabhat Kumar Singh, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

2      14-05-2024                      Heard Mr. Kumar Kaushik, learned counsel for the  
  
petitioner and Mr. Bijoy Kr. Sinha representing the State as also  
  
Mr. Sriram Krishna, learned counsel appearing on behalf of  
  
NHAI.

2. The present writ petition has been preferred for the  
grant of following relief/s:-



*“i. For issuance of an order, direction or a writ of certiorari for quashing the order dated 16.08.2023 passed in Land Acquisition Appeal Case No.33/ 2023-24 communicated to the petitioners through Memo No.1081 dated 23.08.2023 whereby and whereunder the application filed by the writ petitioners under Section 3- G (5) of the National Highways Act, 1956 for redetermination of the award has been rejected by the Respondent No.7 namely, the Commissioner, Bhagalpur Division-cum-Learned Arbitrator only on the ground of delay without deciding the claim of the petitioners on merit.*

*ii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to determine the award in accordance with Section 3-G (7) of the National Highways Act, 1956 read with Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement*



*Act, 2013 on the basis of market value specified in the Indian Stamp Act, 1899 for the registration of the sale deed in the area where the land is situated.*

*iii. For issuance of an order, direction or an appropriate writ for restraining the respondent authorities from taking possession of the landed properties of the petitioners without re-determination and payment of award as prayed for in this writ application in accordance with law.”*

3. Learned counsel for the petitioner submits that pursuant to the order of the Patna High Court in CWJC No. 1788 of 2022, he preferred appeal (Rajbali Pandey vs. The District Magistrate, Bhagalpur and Ors.) before the Commissioner, Bhagalpur Division, Bhagalpur -cum- Arbitrator, though belatedly, which came to be dismissed on the ground of inordinate delay on 16.08.2023 and communicated vide memo no. 1081 dated 23.08.2023.

4. Learned counsel for the petitioner has drawn attention of this Court to a case decided in **Santosh Kumar Pandey & Ors. vs The Union of India & Ors.** (CWJC No.



**1363 of 2023)** on 02.05.2024 where paragraph-6 onwards read as follows:-

*“6. Learned Counsel for the petitioner submits that as the case has been rejected only on the ground of limitation, it has to be reheard and taken to its logical conclusion.*

*7. Both the learned State Counsel as also learned Counsel appearing on behalf of the N.H.A.I. jointly submitted that whether a reasoned order has been passed on merit and/or the same is on limitation, now the recourse with the petitioner is to approach the competent Court under section 34 of the Arbitration and Conciliation Act, 1996, (henceforth for short 'the Act, 1996'). They submit that an order has been passed by the Arbitrator cum Commissioner on 08.08.2023. It is another matter that the same has been rejected on the basis of limitation and now the Arbitrator cannot review its own order.*

*8. This Court is also of the same view.*



*An order has been passed by the Arbitrator and in that background only recourse available to him is to approach the competent Civil Court under section 34 of the 1996 Act'.*

*9. So far as the no delay submission is concerned, it has to be noted that the Award/notice of the Collector in L.A. Case No. 78 of 2019-20 is 09.08.2021 (Annexure-P-3).*

*10. The petitioner remained inactive for one year and in the year 2022 having thought of the delay approached Patna High Court in C.W.J.C. No. 1778 of 2022. The same was disposed of on 19.05.2022 directing him to approach the Arbitrator under the N.H. Act, 1956.*

*11. Again he sat over the matter for one year and on 05.06.2023 filed L.A. Appeal No. 31 of 2023-24. The Arbitrator thus was fully justified in taking decision on limitation holding that no reason has been*



*explained for filing appeal one year after the disposal of writ petition.*

*12. Learned Counsel for the petitioner submits that he will be approaching the concerned competent Court within a period of four weeks but again the limitation may come into picture.*

*13. If the petitioner approaches the concerned competent Court within a period of four weeks from today, the Court concerned shall take into account the fact that he was pursuing his remedy before the Writ Court while considering the limitation petition preferred by him. This Court clarifies that the same is restricted to only four weeks and not thereafter.*

*14. The writ petition stands disposed of with the aforesaid observation.”*

5. Learned counsel for the petitioner submits that in that background, he shall be approaching the concerned competent Civil Court within four weeks for the redressal of the grievance but it is his further submission that the limitation may



again come into picture.

6. In view of the earlier order passed on 02.05.2024 in **Santosh Kumar Pandey** (supra), this Court is of the opinion that the same benefit has to be extended to the petitioner herein.

7. If the petitioner approaches the concerned competent Court within a period of four weeks from today, the Court concerned shall take into account the fact that he was pursuing his remedy before the Writ Court while considering the limitation petition preferred by him. This Court clarifies that the same is restricted to only four weeks and not thereafter.

8. The writ petition stands disposed of with the aforesaid observation.

**(Rajiv Roy, J)**

Adnan/-

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