IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16121 of 2024

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Sharda Construction through its proprietor, namely, Deepak Kumar, aged about 62 years, Gender-Male, son of Late Anukul Prasad, presently having its registered office at Sharda Villa, F-3, Ashiana Nagar, Phase-II, Police Station-Rajiv Nagar in the town and district of Patna.

... ... Petitioner.

Versus

1. The Union of India through the Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
2. The Under Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
6. The Bihar State Educational Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna through its Managing Director.
7. The Managing Director, Bihar State Educational Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.
8. The Chief Engineer, Bihar State Educational Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.
9. The Chief Consultant (Technical), Bihar State Educational Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.
10. The Executive Engineer, (Headquarter), Bihar State Educational Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna.

... ... Respondents.

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Appearance :

For the Petitioner	:	Mr. Ranjit Kumar Singh, Advocate.
For the State	:	Mr. Vivek Prasad, GP-7.
For BSEIDC	:	Mr. Girijesh Kumar, Advocate.
For UOI	:	Mr. Anshuman Singh, Senior SC (CGST & CX).

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL JUDGMENT

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

Date : 02-07-2025

In the instant writ petition, the petitioner has prayed for the following relief(s):

> "For issuance of an appropriate writ/writs, order/ orders, direction/directions, rule or command, especially in the nature of MANDAMUS, commanding and directing the respondents to make refund of the 12% GST already paid under Agreement no.488 SBD of 2014-15 for which respondent no.8 had entered into the said agreement on 30.11.2014 and the work had already been completed much prior to the enforcement of the GST Act, 2017 with effect from 1.07.2017, even though, 12% GST had been paid and claim for difference of GST from RA bill No.11 to 15 to the tune of Rs.5,36,243/- is pending for refund which may be directed to be refunded within a time frame, so that the petitioner may not further suffer due to the callousness of the respondents and/or any other relief(s) to which the petitioner may be found entitled thereto as this Hon'ble Court may deem just and proper under the backdrop of the facts and circumstances of the present case."

2. On 05.05.2025, we had passed the following order:

> "Re-list this matter on **12.05.2025**.
>
> 2. In the meanwhile, petitioner is hereby directed to comply co-ordinate bench order dated 07.04.2025, failing which present writ

> petition would be dismissed on the ground of delay and laches."

3. Today, learned counsel for the petitioner filed supplementary affidavit along with the two documents, namely, 15th & Final Bill approved on 31.01.2020 and the Judgment dated 05.07.2019 passed in C.W.J.C. No.1452 of 2019 and other connected matters read with the Letter No.19 dated 27.05.2020. These materials are not relating to ignore the delay and laches. The petitioner had cause of action in the year 2017. He had approached the respondents in April, 2024 and, thereafter, the present writ petition was filed in the month of October, 2024. Having regard to the fact that cause of action accrued to the petitioner in the year 2017 as is evident from the relief(s) sought in the present writ petition, there is a delay and laches on the part of the petitioner. The Hon'ble Supreme Court in the case of **State of Jammu and Kashmir Versus R.K. Zalpuri,** reported in **AIR 2016 Supreme Court 3006,** in paragraph-20, has held as under:

> "**20.** Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwala and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the

Constitution, has expressed thus:-

"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."

Underline Supplied.

One of the principle laid down by the Hon'ble Supreme Court is that the Writ Court is required to examine delay and laches insofar as filing writ petition.

4. The supplementary affidavit filed along with the documents which are placed on record are not relating to condone the delay or ignore the laches, on the other hand, it is on merit.

5. In the light of these facts and circumstances, the petitioner has not made out a case solely on the ground of delay and laches.

6. Accordingly, the instant writ petition stands dismissed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2025.
Transmission Date	NA