

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.549 of 2025

In
Civil Writ Jurisdiction Case No.696 of 2023

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Manjaura Primary Agriculture Credit Society, Udakishunganj, District-Madhepura through it is Chairman Abda Tabassum, Female aged 33 Years Wife of Arsad Ansari, Resident of Manjaura P.S.-Bihariganj, District-Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The Principal Secretary, Cooperative Department, Government of Bihar, Patna.
4. The District Magistrate, Madhepura.
5. The Cooperative Extension Officer cum Enforcement Officer, Madhepura.
6. The Block Development Officer, Udakishunganj Block, Madhubani.
7. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
8. The District Manager, Bihar State Food and Civil Supplies Corporation, Madhepura.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shashi Bhushan Kumar, Advocate
For the State	:	Mr. Arvind Ujjwal, SC-4
For the B.S.F.C.	:	Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-01-2026

This Letters Patent Appeal has been filed by the appellant Manjaura Primary Agriculture Credit Society challenging the order dated 17.02.2025 passed by the learned Single Judge in C.W.J.C. No.696 of 2023, wherein the learned

Single Judge has been pleased to dismiss the writ petition.

The writ petition was filed with the following prayer:-

- “(i) For issuance of writ of mandamus commanding upon the respondents to enter into the agreement with the petitioner for the milling of the paddy & other works for the current & onwards Kharif Session as they are entering into the agreement with the other PACS they are not taking work from this petitioner (PACS) on the issue on which this Hon'ble Court has decided that for the fault of the respondents Bihar State Food & Civil Corporation the food grains were not lifted from the godown of the petitioner.*
- (ii) For issuance of writ of mandamus commanding upon the respondents to lift the balance quantity of CMR which has been alleged not been supplied to the corporation (in whatever condition it is) as the District Magistrate after enquiry has found the same CMR in the godown of the petitioner at the relevant point of time.*
- (iii) For the declaration that petitioner is not a defaulter as due to latches of the BSFC the remaining quantity of the CMR was not lifted from the godown of the petitioner.*
- (iv) For direction upon the respondents to pay milling & transportation charge of the paddy and also the rent of the godown against which due to latches of the BSFC the proportionate quantity of the CMR was not lifted from the godown of the petitioner and District Magistrate after enquiry found same CMR was present in the godown of the petitioner at the relevant point of time.*
- (v) For the direction to the BSFC to pay heavy*

cost (compensation) to the petitioner as due to non action of the respondent corporation, the petitioner is being harassed for the default of the respondent corporation itself.

- (vi) For the direction to the Government to take appropriate action including Department proceeding against the erring authority who had not lifted the CMR for Kharif session 2017-18 from the mill/godown of petitioner only due to non fulfilling of the illegal demand by the petitioner.*
- (vi) For the other reliefs in the facts & circumstances of the case.*
 - i. For issuance of the writ of mandamus commanding the respondent to enter into the agreement with the petitioner PACS of the KMS 2024-25 and onwards for the procurement of paddy and milling work.*
 - ii. For issuance of writ of certiorari for quashing of the part of the order dated 20.3.2020 (Annexure-16 to W.P) passed by Secretary, food and consumer protection department by which Secretary has constituted a enquiry committee to enquire about to Fair Average Quality (FAQ) of the Custom Milled Rice (CMR) remaining unlifted in the mill /down of the petitioner PACS and if the CMR is found in good quality then only the CMR is lifted.*
 - iii. For issuance of a writ of certiorari to quash the inquiry report dated 21.05.2020 (Annexure-17), in which the committee formed by the Secretary conducted an assessment, after a two-year delay, and found that the CMR did not meet the FAQ standard.*
 - iv. Other reliefs in the facts and circumstances of the case.”*

2. Learned counsel for the respondent nos.7 and 8 filed the counter affidavit wherein the following stand has been taken:-

“4. That the present writ petition has been filed by the petitioner for directed to respondent to entire into the agreement with the petitioner for the milling of the paddy and other work for the current and on words Khariff Sessions as they are entry into the agreement with the other PACS. They are not taking work from this petitioner (PACS) on the issue on what this Hon'ble Court has decided that for the fault of the respondent BSFC the food grains work not lifted from the godown of the petitioner and further pray for direction to respondents to lift the balance quantity of CMR wheat has from alleged not from supplied to the corporation as the District Magistrate after enquiry has found the some CMR in the godown of the petitioner at the relevant post of time and other prayers.

5. That it is relevant to mention here that the petitioner has filed writ application for direction to lift balance CMR, which has from alleged not from supplied to the corporation, but the District Magistrate after enquiry has found the some CMR in the petitioner's godown, and also the petitioner has pray for pay milling and transportation charge of he paddy and also the rent of the godown.

It is relevant to mention here that the petitioner's prayer is against policy decision by Government of Bihar and BSFC and also containing own prayers due to the petitioner's prayer for lift the

balance CMR after cutt off dates fixed by Government of India procurement year 2017-18 and the petitioner has admitted that the petitioner has use own transporting for received paddy and wanting transporting charge.

6. *That as per policy decision, the petitioner's PACS is liability to deposited / supplied CMR to BSFC godown within cutt off date and after cutt off date 31.7.2018, the procurement year 2017-18 by closed and that facts are mentioned in L.P.A. No.1141/2016 vide order dated 15.10.15 in petitioner/s case as Annexure-13 to writ petition.*
7. *That in the light of order dated 15.10.19 passed in LPA No.1141 of 2018, the present writ petition is not maintainable and also bar res judicata due to the petitioner has earlier filed writ petition in same prayer in C.W.J.C. No.14890 of 2018 vide order dated 30.7.18 as Annexure 9 to writ petition.*
8. *That the petitioner has earlier filed writ application for identical issue in C.W.J.C. No. 14890 of 2018 before this Hon'ble High Court, Patna and the Hon'ble Court has passed vide order dated 30.7.18 as Annexure-9 to writ petition.*
9. *That there the answering respondent has filed appeal against vide order dated 30.7.18 in LPA No.1141 of 2018 and Hon'ble Division Bench has considered and passed order dated 15.10.19 as Annexure -13 to writ petition.*
10. *That as compliance of the Hon'ble Division Bench order dated 15.10.19, the Principal Secretary, Food and Consumer protection department, Govt. of Bihar has considered*

the petitioner's case after and notice vice memo No. 87 dated 7.1.20 to petitioner and final order passed vide memo No. 1302 dated 12.3.20 as Annexure 16 to writ petition.

- 11. That as per order dated 17.3.2020, the Secretary, food & Consumer Protection department, Patna has constituted a three men committee headed by District Magistrate, Madhepura and directed to lift CMR with PACS as (Fair Average Quality).*
- 12. That in compliance of the aforesaid order/instruction, the thee men committee headed by District Magistrate Madhepura in examined and passed order dated 21.5.20 and stated that 100 quintal of CMR is found in earth and that quality is not FAQ and also not use of human and also recommended for balance quantity has not received by BSFC due to aforesaid reason as Annexure-17 to writ petition.*
- 13. That in compliance of Hon'ble Division Bench order, the petitioner has already accepted all direction and order since 2020. But the petitioner has again filed writ on identical prayer and own admission order, before this Hon'ble Court.”*

3. Supplementary counter affidavit was also filed by

the respondent nos.7 and 8 wherein it is stated as follows:-

- “5. That the petitioner's prayer for agreement of milling work and for accepting the CMR in whatever (perished) condition it is, as well as its claim for payment, are not tenable as the Respondent authorities have already resolved the dispute in the light of order dated 15.10.2019 passed in LPA No.*

1141 of 2018 and the petitioner has been found in default of CMR, thus undermining its entitlement to any benefits. As such the present petition under reply is barred by the principle of res judicata.

- 6. That as per the report of the District Cooperative Officer, Madhepura, as stated in Annexure-6 to the writ petition, the reported quantity of purchased paddy by the petitioner is only 46.80 quintals, significantly lower than the claimed 1101 quintals. Whereas the targeted quantity was fixed at 300 quintals. This discrepancy indicates a default on the part of the petitioner.*
- 7. That the petitioner claimed that he still had the CMR converted from paddy with him and contested this matter before the Hon'ble Court by way of different litigations and finally order dated 15.10.2019 was passed in LPA No. 1141 of 2018 with a direction to the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar to examine all facts, and any other relevant fact, and then pass an appropriate order.*
- 8. That accordingly Respondent No. 2 passed a reasoned order vide Memo No. 1302 dated 12.03.2020 as contained in Annexure-16 to the writ petition and constituted a three-man committee headed by the District Magistrate, Madhepura to assess whether the remaining CMR with the petitioner is acceptable in its current condition.*
- 9. That after thorough examination, the committee concluded, in its proceeding dated 21.05.2020, that the remaining rice is not of the desired Fair Average Quality*

(FAQ) standard and has perished beyond acceptable limits. It is not out of place to mention that the chairman of the petitioner Primary Agricultural Cooperative Society (PACS) was present during the examination.

- 10. That more than three years have passed since the order of the Secretary and the committee's decision, yet the petitioner did not challenge these orders before any forum. Now, at this stage the principle of res judicate comes into play, barring the petitioner from re-agitating the matter.*
- 11. That the Respondent Corporation, being a commercial organization, operates with policies aimed at safeguarding its own interests and the broader public welfare. Considering these policies, it is not desirable for the Corporation to accept perished CMR beyond the stipulated FAQ standards. Furthermore, engaging in business with a miller with a questionable history is also deemed undesirable.”*

4. Another supplementary counter affidavit was filed

by the respondent nos.7 and 8 wherein it is stated as follows:-

“4. That the petitioner has filed interlocutory application for direction to respondent authority to enter into the Agreement with the petitioner's PACS of the KMS 2024-25 for milling of paddy and further pray for quashing the past order dated 20.3.20 passed by Secretary Food and Consumer protection Department Bihar by which secretary has constituted a enquiry committee to enquiry and also quashed the enquiry report dated 21.5.2020.

5. *That the present interlocutory application is not maintainable due to the petitioner has accepted vide order memo No. 1302 dated 12.3.2020 as Annexure-16 and order vide memo No. dated 21.5.20. The petitioner has challenge the aforesaid order through I.A. after received counter affidavit has been filed by the respondents.*
6. *That the petitioner has filed writ application and prayer is identical/same in earlier writ application i.e. C.W.J.C. No. 14890 of 2018 and bar by res judicata and second objection, the petitioner has accepted order dated 12.3.2020 and 21.5.2020 and challenge after more than four years.*
7. *That the petitioner is defaulter miller and defalcated public food grain and that allegation are true after passed order in compliance of Hon'ble Court order dated 30.7.2018 passed in LPA No. 1141/2018.*
8. *That the petitioner has filed writ application since 2023, and not challenge the aforesaid order, therefore two procurement year has been program and closed i.e. 2022-23 and 2023-24.*

It is relevant to mention here that as per guide line no any defaulter miller/PACS has allowed to participate in paddy procurement/milling.

9. *That in compliance of order dated 30.7.2018 passed in LPA No. 1141/2018, the petitioner is a defaulter miller and defalcated public food grain with criminal conspiracy.”*

5. The learned Single Judge after hearing the respective parties has been pleased to hold as follows:-

“9. *Admittedly, in this case, the petitioner has approached this Court after lapse of more than five years from the procurement year 2017-18 and three years from the date of last report by the authorities to lift the CMR, there is no explanation whatsoever in the present writ petition explaining the delay in approaching this Court. Further, it is to be noted that there are seriously disputed questions of fact which cannot be gone into by this Court under Article 226 of the Constitution of India. Though the enquiry report was submitted by the authorities on 21.05.2020 (Annexure-17), the petitioner has challenged the same only in the year 2023.*

10. *In **Jain Plastics and Chemicals Ltd.**, (5 supra), the Hon'ble Supreme Court has held as under:*

"3.It is to be reiterated that writ petition under Article 226 is not the proper proceedings for adjudicating such disputes. Under the law, it was open to the respondent to approach the court of competent jurisdiction for appropriate relief for breach of contract. It is settled law that when an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction of the High Court. Equally, the existence of alternative remedy does not affect the jurisdiction of the court to issue writ, but ordinarily that would be a good ground in refusing to exercise the discretion under Article 226.

7.It is true that many matters could be decided after referring to the contentions raised in the affidavits and counter-affidavits, but that would hardly be a ground for exercise of extraordinary jurisdiction under Article 226 of the Constitution in case of alleged breach of contract. Whether the alleged non-supply of road permits by the appellants would justify breach of contract by the respondent would depend upon facts and evidence and is not required to be decided or dealt with in a writ petition. Such seriously disputed questions or rival claims of the parties with regard breach of contract are to be investigated and determined on the basis of evidence which may be led by the parties in a properly instituted civil suit rather than by a Court exercising prerogative of issuing writs."
(emphasis supplied)"

11. Further in **Sana Radha v. State of Andhra Pradesh 2021 SCC OnLine AP 326 (at para 9)** has held as under;

"This Court cannot also state simply that since there are disputed questions of fact it will not enter into the areas of controversy. This Court has a duty to spell out what are the disputed questions of fact, which need

*to be established and adjudicated. Therefore, the issues that are spelt out are for the limited purpose of pointing out the matters which in the opinion of the Court need to be proved in a Civil Court through proper pleading and evidence. In the opinion of this Court, these are all the matters of pleading and evidence, which are best addressed and decided in a regular civil suit. **In the opinion of this Court, a civil suit is the proper and efficacious remedy for this case and not a Writ. Disputed question cannot be decided in the Writ.***

12. *Having regard to the same, this Court does not find any merit in the present writ petition which warrants any interference by this Hon'ble Court. The present writ petition is dismissed on the ground of laches and also on the ground that there are seriously disputed questions of fact which cannot be gone into by this Court. The CWJC is accordingly, dismissed granting liberty to the petitioner to approach the Civil Court for payment of the dues or damages from the respondent-BSFC, if he is so advised."*

6. Learned counsel for the appellant submits that the appellant is entitled to get the relief as sought for as they are in no way responsible for the deterioration of the quality of the paddy and it was on account of the negligence and laches of the authorities concerned that the quality of the paddy got

deteriorated for which the Corporation did not accept the same.

7. However, we find that not only earlier such matter was agitated before this Court in C.W.J.C. No.14890 of 2018 and in L.P.A. No.1141 of 2018 but also the learned Single Judge is quite justified in observing that there are disputed questions of fact and has rightly passed the order giving liberty to the appellant to approach the Civil Court for payment of dues or the damages from the B.S.F.C.

8. A Letters Patent Appeal, as permitted under the Letters Patent, is normally an intra-Court appeal whereunder the Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a Subordinate Court. In such appellate jurisdiction, the High Court exercises the powers of a Court of Error. (*Ref: (1996) 3 Supreme Court Cases 52, Baddula Lakshmaiah -Vrs.- Shri Anjaneya Swami Temple*). The Division Bench in Letters Patent Appeal should not disturb the finding of fact arrived at by the learned Single Judge of the Court unless it is shown to be based on no evidence, perverse, palpably unreasonable or inconsistent with any particular position in law. This scope of interference is within a narrow compass. Appellate jurisdiction under Letters

Patent is really a corrective jurisdiction and it is used rarely only to correct errors, if any made.

9. After going through the pleadings, the counter affidavit and the supplementary counter affidavits filed and after hearing the parties, we find that there is no perversity in the order of the learned Single Judge in not entertaining the writ petition on the ground of disputed questions of fact and simultaneously giving the appellant liberty to approach the Civil Court for payment of dues or damages from B.S.F.C.

10. Therefore, we are not inclined to entertain this Letters Patent Appeal, which stands dismissed.

11. Interlocutory Application(s), if any, shall stand disposed of.

(Sangam Kumar Sahoo, CJ)

(Bibek Chaudhuri, J)

Jyoti Kumari/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.01.2026
Transmission Date	