

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.1436-1437 OF 2020  
(Arising out of SLP (C) Nos.4057-4058 of 2020  
Arising out of Diary No.10550 of 2019)

BIJENDRA @ BIJENDRA PD. YADAV

Appellant

VERSUS

STATE OF BIHAR & ORS.

Respondents

**O R D E R**

Delay condoned.

Leave granted.

This appeal challenges final orders dated 19.12.2017 and 21.12.2018 passed by the High Court of Judicature at Patna in LPA No.702 of 2017 in CWJC No.12288 of 2014 and in LPA No.295 of 2018 in CWJC No.6581 of 2013 respectively.

The appellant retired in the year 2011 as Panchayat Secretary and soon after his retirement, proceedings were initiated for recovery of a sum amounting to Rs.50 lakhs in December 2011. The challenge raised by the appellant to such initiation was disposed of by the High Court by directing the appellant to prefer a representation before the concerned authorities. The representation was accordingly preferred by the appellant. However, the authorities reiterated the demand by subsequent communication dated 19.04.2012.

Further challenge was raised to the aforesaid communication dated 19.04.2012. The writ petition so filed by the appellant was however withdrawn with a view to prefer an application in contempt jurisdiction but later another writ petition (CWJC No.13125 of 2012) was filed challenging the communication dated 19.04.2012.

In the meantime, the proceedings initiated pursuant to the notice issued in December 2011 culminated in an order dated 12.06.2014 which recited as under:

"Hence, after consideration, an amount of Rs.39,43,105/- (Rs. Thirty Nine lacs forty three thousand one hundred five) is recovered from Shri Vijendra P. Yadav. Shri Yadav is directed to make efforts to pay the said amount of Rs.39,43,105/- (Rs.Thirty Nine lacs forty three thousand one hundred five). The representation of Shri Yadav is disposed of accordingly. Shri Yadav be informed to comply with the same. The Block Development Officer, Katoria be informed to take further action as per law for recovery of the said amount at his level.

The decision regarding the payment of superannuation benefits and other dues of Shri Yadav will be taken at this level on the basis of the report of the Block Development Officer, Katoria. The Block Development Officer, Katoria be informed accordingly for necessary action.

The copy of the order be forwarded to the Deputy Development Commissioner, Banka/District Panchayat Raj Officer, Banka/In-charge, Legal Branch, Banka also."

The appellant, therefore, filed CWJC No.12288 of 2014 challenging the aforesaid order dated 12.06.2014. Said writ petition was however dismissed by a Single Judge of the High Court holding that said writ petition was barred by the principle of *res judicata* inasmuch as the initial demand issued in December 2011 was unsuccessfully challenged by the appellant on the earlier occasion.

The view taken by the Single Judge has been affirmed by the Division Bench in LPA No.702 of 2017.

We have heard Mr. Gaurav Agrawal, learned Advocate appearing for the appellant and Mr. Keshav Mohan, learned Advocate appearing for the State.

In December 2011, when notice was issued to the appellant, it was at the stage of initiation of the proceedings against the appellant. However, the order dated 12.06.2014 came to be passed by the Department after considering the material on record where the appellant was given an opportunity to participate in the matter and present his view point.

Qualitatively, the order dated 12.06.2014 thus stands on a different footing than the notice initiating the enquiry against the appellant. Merely because the appellant on the earlier occasion had unsuccessfully challenged the initiation of enquiry does not mean that he is rendered remediless when it comes to challenging the order dated 12.06.2014.

We, therefore, allow the appeal challenging the final order dated 19.12.2017 passed in LPA No.702 of 2017, set-aside the view taken by the High Court and restore the CWJC No.12288 of 2014 to the file of the learned Single Judge, which may be disposed of on merits.

In view of the order passed in LPA No.702 of 2017, no separate orders are called for in LPA No.295 of 2018.

Since the matter was initiated in the year 2011, we request the High Court to conclude the proceedings as early as possible and preferably within six months from the receipt of this order.

In view of the facts and circumstances of the case, there will be no order as to costs.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[VINEET SARAN]

NEW DELHI;  
FEBRUARY 10, 2020

ITEM NO.40

COURT NO.6

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No.10550/2019

(Arising out of impugned final judgment and order dated 19-12-2017 in LPA No.702/2017, 21-12-2018 in LPA No.295/2018 passed by the High Court Of Judicature At Patna)

BIJENDRA @ BIJENDRA PD. YADAV

Petitioner(s)

VERSUS

STATE OF BIHAR &amp; ORS.

Respondent(s)

(IA No.51002/2019 - FOR CONDONATION OF DELAY IN FILING; and, IA No.51005/2019 - FOR EXEMPTION FROM FILING O.T.)

Date : 10-02-2020 This matter was were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Gaurav Agrawal, AOR

For Respondent(s) Mr. Keshav Mohan, Adv.  
Mr. Rishi K. Awasthi, Adv.  
Mr. Prashant Kumar, Adv.  
Mr. Piyush Vatsa, Adv.  
Mr. Santosh Kumar-I, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Delay condoned.

Leave granted.

The Appeal against order dated 19.12.2017 in LPA No.702 of 2017 is allowed, in terms of the Signed Order.

In view of the order passed in LPA No.702 of 2017, no separate orders are called for in LPA No.295 of 2018.

Pending application(s), if any, shall stand disposed of.

(MUKESH NASA)  
COURT MASTER

(SUMAN JAIN)  
ASSISTANT REGISTRAR

(Signed Order is placed on the File)