

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5288 of 2024

CNR No. BRHC010276642024

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Aim of People (Society) having its registered office at Madhav Nagar Road No.4, Jehanabad (Bihar), Pin -804408, represented through its Managing Director namely Satyendra Kumar (male), aged about 51 years, Son of Late Bharosha Sharma, resident of Madhav Nagar Colony, P.O. and P.S- Jehanabad, District- Jahanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Special Secretary-cum-Director, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Joint Secretary, Urban Development and Housing Department and Additional Project Director, SPUR, Urban Development and Housing Department, Government of Bihar, Patna.
5. The Support Programme for Urban Reforms in Bihar (SPUR), through the Project Director, Support Programme for Urban Reforms in Bihar (SPUR), Urban Development and Housing Department, Government of Bihar, Patna.
6. The Project Director, Support Programme for Urban Reforms in Bihar (SPUR), Urban Development and Housing Department, Government of Bihar, Patna.
7. The Additional Project Director, Support Programme for Urban Reforms in Bihar (SPUR) and Special Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
8. The Slum Development Expert, Support Programme for Urban Reforms in Bihar (SPUR), Urban Development and Housing Department, Government of Bihar, Patna.
9. The Municipal Commissioner, Bhagalpur Municipal Corporation, Bhagalpur, Bihar.
10. The Municipal Commissioner, Katihar Municipal Corporation, Katihar, Bihar.
11. The Social Development Officer, Municipal Corporation, Bhagalpur.
12. The Executive Officer, Municipal Corporation, Katihar, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Sr. Advocate
For the State	:	Mr. Mohit Agarwal, AC to AG.
For BMC	:	Mr. Manoj Kumar Singh, Adv.
For KMC	:	Mr. Gautam Kejriwal, Advocate



Mr. Aditya Agarwal, Advocate

**CORAM: HONOURABLE MR. JUSTICE GIRIJISH KUMAR
CAV JUDGMENT**

Date : 15 -10-2026

1. Heard learned counsel appearing on behalf of the petitioner, learned counsel appearing on behalf of respondent-State as well as learned counsels appearing on behalf of the respondents- Corporations.

2. The present writ application has been filed for the following relief(s):-

“(i) To issue a writ/order/ direction in the nature of Mandamus for direction to the Respondent Authorities to release the due payment of the petitioner to the tune of Rs. 43,28,871/- for successfully completing the work of Support for Community Mobilization and livelihood in Bhagalpur and Katihar Town of Bihar under Support Programme for Urban Reforms (Tender NO. SPUR-PMU/046/CM&MP/2011-12/51) with interest, along with release of the performance bank guarantee of Rs. 5,21,000/-.

(ii) To hold and declare that the petitioner is eligible to receive the due payment of the petitioner to the tune of Rs. 43,28,871/- for successfully completing the work of Support for Community Mobilization and livelihood in Bhagalpur and Katihar Town of Bihar under Support Programme for Urban Reforms (Tender No. SPIR-PMU/046/CM&MP/2011-12/51) with interest, along with release of the performance bank guarantee of Rs. 5,21,000/-

(iii) To hold and declare that also in terms of Section 70 of Contract Act, 1872 the claim of the petitioner is liable to the allowed and that action of the Respondent Authorities is contrary to the same.



(iv) To hold and declare that the action/inaction of the Respondent authorities in not making the due payment of the petitioner to the tune of Rs.43,28,871/- for successfully completing the work of Support for Community Mobilization and livelihood in Bhagalpur and Katihar Town of Bihar under Support Programme for Urban Reforms (Tender No. SPUR-PMU/046/CM&MP/2011-12/51) along with release of the performance bank guarantee of Rs. 5,21,000/- is unjust, arbitrary, malafide and perverse.

(v) To hold and declare that the action/inaction of the Respondents authorities in not making the due payment of the petitioner to the tune of Rs. 43,28,871/- for successfully completing the work of Support for Community Mobilization and livelihood in Bhagalpur and Katihar Town of Bihar under Support Programme for Urban Reforms (Tender No. SPUR-PMU/046/CM&MP/2011-12/51) along with release of the performance bank guarantee of Rs. 5,21,000/- is violative of Article 14, 19(1) (g) and 300 A of the Constitution of India.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner happens to be a registered Society under the provisions of the Societies Registration Act, 1860 in the State of Bihar. Pursuant to the Tender No. SPUR-PMU/046/CM&MP/2011-12/51 dated 15.06.2011 issued under the signature of the Project Director, Support Programme for Urban Reforms in Bihar, inviting proposals from eligible consultancy firm to provide technical assistance in providing support for community mobilization and livelihood in 28 towns of Bihar, the petitioner, meeting the eligibility criteria,



participated in the Tender and was declared successful. After issuance of the letter of acceptance on 20.12.2011 in favour of the petitioner, a contract was executed between Support Programme for Urban Reforms in Bihar (SPUR), Urban Development and Housing Department (UD & HD) represented through the Additional Project Director, SPUR and the petitioner on 06.02.2012 for the period of 15.02.2012 to 14.02.2015 for the contract amount of Rs. 94,41,000/-. Pursuant to the work order issued to the petitioner, the petitioner has completed the work of Katihar and Bhagalpur according to the time line and in this regard, all quarterly progress reports have been submitted to the respondent authorities in terms of the contract agreement, however, only Rs. 51,12,129/- has been paid to the petitioner out of Rs. 94,41,000/-. Being aggrieved, the petitioner filed several representations before the respondent authorities requesting the release of pending amount of Rs. 43,28,871/- along with performance bank guarantee of Rs. 5,21,000/- but the respondent authorities could not paid heed towards the claim of the petitioner.

4. On the other hand, learned counsel appearing on behalf of respondent nos. 2 and 3, Urban Development and Housing Department, Government of Bihar, submitted that the petitioner



has claimed an amount of Rs.43,28,871/- along with release of the performance bank guarantee of Rs.5,21,000/- in connection with the work of Support for Community Mobilization and Livelihoods in Bhagalpur and Katihar under the Support Programme for Urban Reforms in Bihar Scheme. It has further been submitted that, after the SPUR Programme came to an end in March 2017, a committee was constituted to assess and verify the dues claimed by the organizations engaged under the programme. Furthermore in its meeting dated 23.03.2017, the committee assessed the amount payable to the petitioner at Rs.13,99,999/-, subject to necessary deductions and verification of the relevant documents. Out of the recommended amount, Rs.5,50,158/- was paid to the petitioner, while payment of the remaining amount was subject to submission and verification of the requisite documents.

5. Learned counsel further submitted that the Department, vide Letter Nos. 3173 and 3175, both dated 13.05.2024, requested the Municipal Commissioners of Katihar and Bhagalpur to furnish verified closure reports on the basis of the documents submitted, and, vide Letter No. 3174 dated 13.05.2024, the petitioner was also requested to furnish the verified completion report relating to the work performed. It has



further submitted that the requisite verified reports had not been made available to the Department and that further action would only be taken upon receipt of the necessary documents. Accordingly, learned counsel submitted that the question of further payment remained subject to verification of the relevant records and supporting documents.

6. *Per contra*, learned counsel appearing on behalf of respondent no. 10, Katihar Municipal Corporation, at the very outset, has raised a preliminary objection as to the maintainability of the writ application on the ground of inordinate delay and laches and submitted that the present writ application is liable to be dismissed at its threshold on the sole ground of delay and laches. Statements to that effect have also been made in paragraphs 4, 5 and 13 to 19 of the preliminary objection filed on behalf of respondent no. 10. It has further been submitted that the agreement for the work under the SPUR Scheme was executed on 06.02.2012 and the petitioner claims to have completed the work within the extended period ending on 31.12.2015. The last progress report was submitted on 14.06.2015, followed by representations dated 18.05.2017 and 10.09.2018 seeking release of the alleged outstanding dues. Furthermore, the petitioner approached this Court in 2024,



without satisfactorily explaining the delay. It has been further submitted that, even if the consent letter dated 29.04.2017 is taken as the relevant date, the period of three years for filing a civil suit for recovery of money expired on 28.04.2020 and the subsequent representations could not, by themselves, extend the period of limitation or revive a stale claim.

7. Learned counsel further submitted that the plea of continuing cause of action is not sustainable merely because the alleged dues remained unpaid. It has further been contended that the letter dated 16.04.2019, relied upon by the petitioner, did not amount to an admission of the entire amount claimed, as the matter remained subject to verification of the relevant documents. Placing reliance upon **A.V. Venkateshwaran Collector of Customs, Bombay v. Ramchandra Shobhraj Wadhwani, AIR 1961 SC 1506, Chairman/Managing Director, Uttar Pradesh Power Corporation Ltd. v. Ram Gopal, (2021) 13 SCC 225, and S.S. Balu and Anr v. State of Kerala, (2009) 2 SCC 479**, it has been submitted that the petitioner should have approached this Court within a reasonable period and, therefore, a stale claim cannot be revived through extraordinary writ jurisdiction. Accordingly, it has been prayed that the writ application may be dismissed on the ground



of delay and laches, without entering into the merits of the claim.

8. Refuting the respondent's objection with regard to delay and laches, learned counsel for the petitioner submitted that the objection is misconceived, as the petitioner has been running from pillar to post for release of its legitimate dues, after completion of the work, but the respondent authorities have failed to make payment despite the lapse of approximately nine years. It has further been submitted that the respondents have neither rejected nor refused the petitioner's claim rather, vide letter dated 16.04.2019, the Special Secretary-cum-Director, Urban Development and Housing Department, Government of Bihar, had directed the concerned Municipal Commissioner to furnish the relevant documents relating to the work undertaken under the SPUR Scheme. It has further been contended that the delay in processing the claim is attributable to the inaction of the Municipal Corporations of Katihar and Bhagalpur, which are the custodians of the relevant records, and that the petitioner cannot be penalised for their failure to furnish the requisite documents. It has, accordingly, been submitted that the claim continues to subsist and, therefore, the judgements relied upon by the respondents on delay and laches are



distinguishable on the facts of the present case and have no relevance in this present case.

9. Learned counsel for the petitioner further submitted that the law of limitation ordinarily bars the remedy and does not extinguish the right itself, and that the continued withholding of payment for the work allegedly completed by the petitioner, without a final decision on its claim, is arbitrary and violative of Articles 14 and 300A of the Constitution of India. It is contended that the petitioner has sufficient cause for approaching this Hon'ble Court and that the delay in instituting the writ application ought not to defeat its claim or justify the alleged arbitrary inaction of the respondents. Learned counsel further submitted that the contractual nature of the dispute does not, by itself, render the writ application non-maintainable, particularly when the petitioner alleges violation of Article 14 of the Constitution of India by the State authorities. Accordingly, it has been prayed that the objection regarding delay and laches may be rejected and the writ application may be considered on its merits.

10. Having heard the learned counsels for the parties at considerable length, this Court finds from the facts of the case that the instant prayer in the nature of money claim to the tune



of Rs. 43,28,871/- appears to have been arisen out of a contract for the period of 15.02.2012 to 14.02.2015 executed between the petitioner and the Support Programme for Urban Reforms in Bihar (SPUR), Urban Development and Housing Department (UD & HD) through the Additional Project Director, SPUR on 06.02.2012 for the work of support for community mobilization and livelihoods in the districts of Bhagalpur & Katihar and the instant writ application appears to have been filed in the year 2024 praying therein to release the payment of Rs. 43,28,871/- and release of the Performance Bank Guarantee of Rs.5,21,000.

11. Now, a moot question falls for consideration before this Court is that as to whether a writ application under Article 226 of the Constitution of India would be maintainable before this Court, more particularly, for the enforcement of contractual rights of a person, especially, for a money claim that too filed after nine years from the cause of action.

12. First and foremost, to address the application of law of limitation in this writ application, Section 3 of the Limitation Act, 1963 would be relevant to reproduced herein-below:

3.Bar of limitation.—(1) *Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.*



(2) For the purposes of this Act —

(a) A suit is instituted —

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted —

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter claim, on the date on which the counter claim is made in court; (c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court. ”

13. Taking note of the nature of prayer made in this writ application and the question of maintainability, as aforesaid, and also without entering into the factual aspect of the matter, in detail, this Court would refer to the judgment of the Hon'ble Apex Court in the case of ***Joshi Technologies International Inc. vs. Union of India and Others, reported in (2015) 7 SCC 728*** in which, it has been held that, undoubtedly, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised but the discretion lies with the High Court, which, under certain circumstances, can refuse to exercise its discretionary jurisdiction. It has also been



held that the writ petition is not maintainable just to avoid the contractual obligation and, ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue the party for specific performance of the contract, if contract is capable of being specifically performed or even otherwise, the party may sue for damages. It has categorically been held that if the contract between the parties is under the realm of a private law and there is no element of public law, the aggrieved party in normal course is to invoke the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitution of India.

14. The question of maintainability of a writ application under Article 226 in the case of money claim has been considered and decided by the Hon'ble Supreme Court in the case of *Hindustan Petroleum Corporation Limited and others Vs. Dolly Das reported in (1999) 4 SCC 450*, wherein it was held that for invoking the writ jurisdiction, involvement of any constitutional or statutory right is essential and in the absence of a statutory right, the remedy under Article 226 could not be availed to claim any money in respect of breach of contract, tort or otherwise. It was reiterated that in absence of any constitutional or statutory rights being involved, a writ



proceeding would not lie to enforce a contractual obligation even if it is sought to be enforced against the State or its authorities.

15. On the ongoing issue, as aforesaid, the Hon'ble Supreme Court in the case of ***Kerala State Electricity Board and others vs. Kurien E. Kalthil and others reported in (2000) 6 SCC 293*** has held that the writ court would not ordinarily be the appropriate forum for resolution of disputes relating to terms of contract and the disputes arising from contractual or commercial activities must be settled according to ordinary principles of law of contract. The interpretation and implementation of a clause in a contract cannot be the subject matter of a writ petition. Whether the contract envisages actual payment or not is a question of construction of contract? If a term of a contract is violated, ordinarily the remedy is not the writ petition under Article 226 of the Constitution of India.

16. Before proceeding further, it would be apt to take note of the reliance placed on behalf of the petitioner as to the issue of maintainability of the writ application on the judgment of Hon'ble Supreme Court in the case of ***M/s Utkal Highways Engineers and Contractors Vs. Chief General Manager and Others (SLP(Civil) No. 14350 of 2022)*** reported in ***(2023) 18***



SCC 721 and has relied upon paragraphs 3, 8 and 9 of the judgment. Paragraph 8 and 9 are being reproduced herein below:

“8. Be that as it may, the High Court has not dealt with the merits of the writ petition. Moreover, it is not an inviolable rule that no money claim can be adjudicated upon in exercise of writ jurisdiction. Non-payment of admitted dues, inter alia, may be considered an arbitrary action on the part of respondents and for claiming the same, a writ petition may lie. Further, throwing a writ petition on the ground availability of alternative remedy after 10 years, particularly, when parties have exchanged their affidavits, is not the correct course unless there are disputed questions of fact which by their very nature cannot be adjudicated upon without recording formal evidence.

9. The High Court, in the impugned orders, has not set out any factual foundation of the kind which may suggest that there were disputed questions of fact that necessitated recording of evidence.

17. The aforesaid reliance of the petitioner is diminished by virtue of the law laid down by the Hon’ble Supreme Court in the case of **Joshi Technologies (supra)** inasmuch as it is held that undoubtedly, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised but the discretion lies with the High Court, which, under certain circumstances, can refuse to exercise its discretionary



jurisdiction. Apart from that the Hon'ble Supreme Court in the case of *M/s Utkal Highways Engineers and Contractors (supra)* has also held that Non-payment of admitted dues, *inter alia*, may be considered an arbitrary action on the part of respondents and for claiming the same, a writ petition may lie. In the present case, in my view, dues of the petitioner has not been admitted by the respondents rather they are disputed.

18. Bringing this Court to the facts, learned counsel for the petitioner contends that even otherwise there is no limitation, bar or delay for the reason that the claim was never rejected by the respondents and in fact the Special Secretary -cum- Director, Urban Development and Housing Department vide letter dated 16.04.2019 has communicated to the concerned authorities to take action on the claim of the petitioner. He also contends that there was Covid for the period 15.03.2020 till 28.02.2022, for which limitation is not counted, and in this regard he referred to the order dated 10.01.2022 passed in *Suo Moto Writ Petition (Civil) No. 3 of 2020*. Referring to the counter affidavit, he contends that the authorities, vide letter dated 13.05.2024 has also requested the Municipal Commissioners to make available the required documents to the petitioner but the same have not been provided to the petitioner,



as such, he contends that even in terms of Section 18 of the Limitation Act, it is apparent that the limitation will not apply in this present case. He lastly submits that it is the authorities who did not provide the documents to the petitioner and, therefore, the petitioner cannot be saddled for the laches of the respondents.

19. In support of his claim, he also relied upon the judgment of Hon'ble Supreme Court in the case of ***Sukhdutt Ratra and Another Vs. State of Himachal Pradesh and Others***, reported in ***(2022) 7 SCC 508***.

20. On the contrary, learned counsel for the respondents has relied upon a judgment of Hon'ble Division Bench of this Court in the case of ***M.K. Traders vs. The "State of Bihar & Others"*** passed in C.W.J.C. No. 6180 of 2026 in which the Division Bench of this Court has held as under:

"The issue of delay in filing statutory appeal before the Appellate Authority and writ application before this Hon'ble is not Res integra. The Hon'ble Patna High Court vide judgment dated 20.04.2023 in matter of M/s Vishwanath Traders Vrs Union of India, which has been affirmed by Hon'ble Supreme Court vide order dated 04.08.2023 i.e. SLA (C) No.-15594/2023, has addressed the issue of filing of writ application against order passed by Appellate Authority rejecting appeal on ground of delay, has dismissed the writ application. In matter of M/s Adarsh Construction Vrs. State of



Bihar, vide judgment dated 23.01.2024, Patna High Court has dismissed the writ application with observation that the law favours the diligent and not the indolent and the same view was reiterated by the Court vide judgment dated 11.07.2024 in the matter of M/s D.K. Jamuar and Co. Vrs. State of Bihar & Ors.”

21. Further, a reliance has been placed on the judgment of the Hon’ble Supreme Court in the matter of ***Assistant Commissioner (CT) LTU, Kakinada and Ors. Vrs. Glaxo Smith Kline Consumer Health Care Limited***, reported in (2020) 19 SCC 681. The relevant paragraph of the judgment is being reproduced herein below:

“16. Indubitably, the powers of the High Court under Article 226 of the Constitution are wide, but certainly not wider than the plenary powers bestowed on this Court under Article 142 of the Constitution. Article 142 is a conglomeration and repository of the entire judicial powers under the Constitution, to do complete justice to the parties. Even while exercising that power, this Court is required to bear in mind the legislative intent and not to render the statutory provision otiose. In a recent decision of a three-Judge Bench of this Court in ONGC v. Gujarat Energy Transmission Corpn. Ltd., the statutory appeal filed before this Court was barred by 71 days and the maximum time-limit for condoning the delay in terms of Section 125 of the Electricity Act, 2003 was only 60 days. In other words, the appeal was presented beyond the condonable period of 60 days. As a result, this Court could not have condoned the delay of 71



days. Notably, while admitting the appeal, the Court had condoned the delay in filing the appeal. However, at the final hearing of the appeal, an objection regarding appeal being barred by limitation was allowed to be raised being a jurisdictional issue and while dealing with the said objection, the Court referred to the decisions in Singh Enterprises v. CCE, CCE v. Hongo (India) (P) Ltd., Chhattisgarh SEB v. CERC and Suryachakra Power Corpn. Ltd. v. Electricity Deptt. and concluded that Section 5 of the Limitation Act, 1963 cannot be invoked by the Court for maintaining an appeal beyond prescribed period in Section 125 of the Electricity Act.”

The Hon’ble painstakingly observes that-

“Be it noted, when there is a statutory command by the legislation as regards limitation and there is the postulate that delay can be condoned for a further period not exceeding sixty days, needless to say, it is based on certain underlined, fundamental, general issues of public policy as has been held in Union Carbide Corpn. Case. As the pronouncement in Chhattisgarh SEB V. CERC, lays down quite clearly that the policy behind the Act emphasising on the constitution of a special adjudicatory forum, is meant to expeditiously decide the grievances of a person who may be aggrieved by an order of the adjudicatory officer or by an appropriate Commission. The Act is a special legislation within the meaning of Section 29(2) of the Limitation Act and, therefore, the prescription with regard to the limitation has to be the binding effect and the same has to be followed regard being had to its mandatory nature. To put it in a different way, the prescription of limitation in a case of present nature, when the statute commands that this Court may condone the further



delay not beyond 60 days, it would come within the ambit and sweep of the provisions and policy of legislation. It is equivalent to Section 3 of the Limitation Act. Therefore, it is uncondonable and it cannot be condoned taking recourse to Article 142 of the Constitution.”

Further paragraph 16, mandates-

“18. A priori, we have no hesitation in taking the view that what this Court cannot do in exercise of its plenary powers under Article 142 of the Constitution, it is unfathomable as to how the High Court can take a different approach in the matter in reference to Article 226 of the Constitution. The principle underlying the rejection of such argument by this Court would apply on all fours to the exercise of power by the High Court under Article 226 of the Constitution.”

22. To substantiate his submission, a reliance has also been placed on the judgment of Hon’ble Supreme Court in the case of ***Chairman/Managing Director, Uttar Pradesh Power Corporation Limited and Others. vs. Ram Gopal***, reported in ***(2021) 13 SCC 225*** in which it is held that the prolonged delay of many years ought not to have been overlooked or condoned. In paragraph-11 of the judgment, it is categorically held that it is true that limitation does not strictly apply to proceedings under Article 32 or 226 of the Constitution, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches



would always be relevant in writ actions, and the writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced.

23. On the strength of the aforesaid law laid down by the Hon'ble Supreme Court, it is contended that the petitioner has approached this Court after a long delay of nine years and on the sole ground the reliefs prayed by the petitioner may be denied.

24. Besides that, it is also urged that the petitioner has an alternative remedy to agitate the issue before the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008 instead of invoking the writ jurisdiction of this Court. However, on this count, learned counsel for the petitioner has placed reliance on the judgment of Hon'ble Supreme Court in the case of *State of Bihar and Others Vs. Brahmaputra Infrastructure Ltd.* reported in (2018) 17 SCC 444 in which it is held that the Tribunal will have no jurisdiction to decide the matter as there



being an arbitration clause in terms of Arbitration and Conciliation Act, 1996. In the present present case, since there is clause 9.2 in the agreement which deals with the 'Dispute Settlement' by invoking the Arbitration and Conciliation Act, 1996, therefore, the ratio laid down in the case of *State of Bihar (supra)* would apply in this case.

25. I have heard the submissions advanced on behalf of the respective parties and have gone through the materials available on record as well as the law laid down by the Hon'ble Supreme Court.

26. Indisputably, the relief sought for by the petitioner in the present case is in the nature of money claim, and the parties have exchanged their respective affidavits disputing the reliefs and stated that the writ application ought to have been dismissed on the ground of delay and laches alone. It is also not in dispute that the claim of the petitioner is disputed on facts. In the present case, though the petitioner has tried to make out a case of admission of the claim by the respondent authorities, relying on the fact that the Special Secretary -cum- Director, Urban Development and Housing Department, vide letter dated 16.04.2019, has communicated to the concerned authorities to take action on the claim of the petitioner, but the respondents in



their counter affidavit outrightly denied the fact that the department has ever accepted the claim of the petitioner to be paid to him. Apart from that, this writ application has been filed after lapse of nine years as the claim of the petitioner is arisen out of a contract period of 15.02.2012 to 14.02.2015. It is an admitted position that there is a clause 9.2 in the contract between the parties which clearly refers to dispute settlement by invoking the Arbitration and Conciliation Act, 1996, but the petitioner has not chosen to exhaust that remedy and approached this Court after lapse of nine years.

27. It is well settled principle of law that “*delay defeats equity*”. It is now a trite law that where the writ petitioner approached the High Court after a long delay, reliefs prayed for in the writ application may be denied on the sole ground of delay and laches irrespective of disputed and undisputed facts.

28. So far as the contention of the petitioner that the Special Secretary-cum-Director, Urban Development and Housing Department, vide letter dated 16.04.2019, communicated with the concerned authorities to take action on the claim of the petitioner is itself sufficient to infer that the respondents have acknowledged his claim, which is construed to be an admission and acceptance, is concerned, this Court is of



the opinion that mere such fact of acknowledgment cannot by itself be treated as an admission or acceptance of the petitioner's monetary claim. Rather, the said communication was an inter-departmental communication requiring the concerned authorities to take necessary action in relation to the claim and the same cannot be treated as a final decision determining any liability of the respondents towards the petitioner.

29. To address the aforesaid issue, it would be apt to refer to the decision of the Hon'ble Supreme Court in ***Mahadeo and Others v. Sovan Devi and Others, 2022 SCC OnLine SC 1118***, in which it is held that inter-departmental communications are merely part of the process of consideration for an appropriate decision and cannot be relied upon as a basis to claim any right. The relevant portion is stated hereunder:-

“14. It is well settled that inter-departmental communications are in the process of consideration for appropriate decision and cannot be relied upon as a basis to claim any right. This Court examined the said question in a judgment reported as Omkar Sinha v. Sahadat Khan, (2022) 12 SCC 228. Reliance was placed on Bachhittar Singh v. State of Punjab, AIR 1963 SC 395 to hold that merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government, two things are necessary. First, the order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and second, it has to be



communicated.”

30. The aforesaid principle has also been dealt with by the Hon'ble Supreme Court in ***Delhi Development Authority v. Hello Home Education Society, (2024) 3 SCC 148*** and it has been reiterated that unless a decision taken on file is converted into a final order and is duly communicated to the concerned person, no right accrues on the basis of such internal noting or in-principle approval. Mere notings and in-principle approvals do not confer a vested right. The relevant paragraphs are being reproduced herein below:

“19.7. The issue relating to internal notings as to whether it would confer any right or not has been adequately dealt with and settled by series of judgments of this Court. It is well settled that until and unless the decision taken on file is converted into a final order to be communicated and duly served on the party concerned, no right accrues to the said party. Mere notings and in-principle approvals do not confer a vested right. Relevant extracts from judgments of this Court in this regard are being reproduced hereunder.

(a) Bachhittar Singh : (AIR p. 398, paras 9-10)

“9. The question, therefore, is whether he did in fact make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such



an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file.

10. ... Thus it is of the essence that the order has to be communicated to the person who would be affected by that order before the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be open to the Council of Ministers to consider the matter over and over again and, therefore, till its communication the order cannot be regarded as anything more than provisional in character."

31. In the present case, the petitioner has failed to establish that either any inter-departmental communication with respect to his claim has been communicated to him or any final order has been passed with respect to his claim, therefore, the letter dated 16.04.2019 cannot be treated as an acknowledgment of the petitioner's claim inasmuch as, admittedly, no final order has been communicated to the petitioner whereby the respondents have accepted their liability to pay the amount claimed. The said communication, being only part of the internal process of examination of the petitioner's claim, cannot have the effect of reviving a claim. In such view of the matter, the ground on which the petitioner has tried to make out of case of admission of his claim at the behest to the respondents is of no relevance in this case.



32. As regards delay and laches on the part of the petitioner as well as law of limitation is concerned, it would be apt to refer to the decision of the Hon'ble Supreme Court in the case of State of ***Madhya Pradesh and Another Versus Bhailal Bhai and Others*** reported in ***(1964) 6 SCR 261***, in which it was held as under:

“22.....The court may consider the delay unreasonable even if it is less than the period of limitation.....The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable. The period of limitation prescribed for recovery of money paid by mistake under the Limitation Act is three years from the date when the mistake is known. If the mistake was known in these cases on or shortly after January 17, 1956 the delay in making these applications should be considered unreasonable.”

33. In addition to the above, on the point of delay, the ***Hon'ble Supreme Court in the case of Tilokchand Motichand & Ors. v. H.B. Munshi & Anr., AIR 1970 SC 898***, has also held that the Court does not ordinarily entertain a neglected claim and the delay in approaching the Court is a relevance consideration while exercising its discretionary jurisdiction. The Court further observed that although the Limitation Act does not in terms apply to proceeding under Article 226 of the



Constitution, the Court may act on the analogy of the statue of limitation and decline to entertain a stale claim particularly on ground of public policy.

34. In the recent decision, the Hon'ble Supreme Court in the case of ***Mageba Bridge Products Private Limited v. M/s. Trade Centre***, reported in **2026 INSC 839** has held as follows:

“17. We categorically find that Annexure P-18 did not acknowledge the debt as sought to be recovered by the respondent, evidenced by the bills, more fully described in the schedule to the plaint. The suit as we found was filed on the strength of the invoices raised and not on the basis of a running account. The mere deduction shown with respect to the payment of the admitted bills, in the schedule to the plaint, will not make it a running account. The notice of demand, the reply issued or the payment made on admission of two bills, with disputes raised with respect to the other bills, demolishes the case set up by the respondent-plaintiff on cause of action as emanating from the plaint.

18. We find absolutely no reason to sustain the order of the High Court in the First Appeal and, hence, reverse the same to the extent of granting the relief of recovery, despite our finding that the suit was properly instituted by a partnership firm, whose registration has been proved in accordance with law. The claim for recovery is hit by limitation. The suit, hence, stands dismissed for that reason.”

35. Taking into consideration the factual aspect of this writ application, as aforesaid, this Court is of the considered



view that it will not be either appropriate or proper for the Court to entertain a petition, where a claim is in the nature of money claim arising out of a contractual obligation that too is barred by law of limitation and the facts are also disputed in nature, in exercise of powers conferred under Article 226 of the Constitution of India to enforce the contractual rights and obligation arisen out of the contract between the parties which absolutely falls under the realm of a private law and there is no element of public law, therefore, the petitioner, in normal course, ought to have invoked the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitution of India. The grant of such relief as sought in this writ application, which is purely a money claim, would virtually amount to a money decree. The law in this regard is fairly settled by the Hon'ble Supreme Court in the case of *Hindustan Petroleum Corporation Limited (supra)*.

36. Similarly, in *Chairman/Managing Director, Uttar Pradesh Power Corporation Ltd. v. Ram Gopal, (2021) 13 SCC 225*, wherein the Hon'ble Supreme Court has held as under;

“9.4. Finally, the prolonged delay of many years ought not to have been overlooked or condoned. Services of the respondent were terminated within months of his appointment, in 1978. Statedly, the



respondent made a representation and served UPPCL with a legal notice in 1982, however such feeble effort does little to fill the gap between when the cause of action arose and he chose to seek its redressal (in 1990).

.....11. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and the writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike.”

37. On the cost of repetition, this Court refers to judgment of the Hon’ble Apex Court in the case of ***Joshi Technologies International Inc. vs. Union of India and Others, reported in (2015) 7 SCC 728*** wherein the Hon’ble Supreme Court has held as under;

“69. The position thus summarised in the aforesaid principles has to be understood in the context of discussion that preceded which we have pointed out above. As per this, no doubt, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised. At the same time, discretion lies with the High Court which under certain circumstances, it can refuse to exercise. It also follows that under the following circumstances,



"normally", the Court would not exercise such a discretion:

- 69.1. The Court may not examine the issue unless the action has some public law character attached to it.*
- 69.2. Whenever a particular mode of settlement of dispute is provided in the contract, the High Court would refuse to exercise its discretion under Article 226 of the Constitution and relegate the party to the said mode of settlement, particularly when settlement of disputes is to be resorted to through the means of arbitration.*
- 69.3. If there are very serious disputed questions of fact which are of complex nature and require oral evidence for their determination.*
- 69.4. Money claims per se particularly arising out of contractual obligations are normally not to be entertained except in exceptional circumstances."*

38. Applying the aforesaid ratio laid down by the Hon'ble Supreme Court, as discussed above, to the facts of the present case, this Court, finally, is of the considered view that this writ application is not maintainable inasmuch as the prayer made in this writ application is in the nature of money claim arising out of a contractual obligation of the parties and is also in the realm of a private law and there is no element of public law and also contains the disputed questions of fact. Moreover, the petitioner, having failed to assert its alleged rights within a reasonable period, cannot be permitted to revive a stale claim by invoking the extraordinary jurisdiction of this Court under



Article 226 of the Constitution of India.

39. Accordingly, the writ application is dismissed on the ground of delay and laches alone.

40. It is made clear that this Court has not examined the merits of the claim.

41. Interlocutory application(s), if any, shall stands disposed of.

(Girijish Kumar, J)

nitw/-

AFR/NAFR	AFR
CAV DATE	28.09.2026
Uploading Date	15.10.2026
Transmission Date	

