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**(2002) 07 PAT CK 0017**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 10947 of 2001**

M/s Lachhman Wire Industries Ltd.

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 23-07-2002

**Acts Referred:**

Constitution of India, 1950 — Article 19(g), 226  
Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings  
Act, 1993 — Section 4, 5

**Citation :** (2004) 4 PLJR 536

**Hon'ble Judges :** P.K. Deb, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

P.K. Deb, J.—On tenders being invited by the Director, Purchase and Transport Water Resources Department, Government of Bihar, for supply of Black Annealed Wires and Galvanised Iron Wires in the years 1988, 1989 and 1990 from Small Scale Industrial Units of Bihar having ISI licence, the petitioner alongwith other such manufacturers submitted their quotations then respondent no. 2 placed supply orders to the petitioner in the year 1989-90. As per the supply order the petitioner had supplied the materials, the details of which are there at paragraph-6 of the writ petition. In terms of the agreement 90% of the bills amount were paid and 10% of the bills were retained to be paid finally after receipt of materials and after due verification but such 10% which amounted to Rs. 7,82,211.63 paise remains due to be paid by the respondents to the petitioner. The petitioner made representations and ran from pillar to post for payment but could not get it. Then he preferred an appeal before the State Appellate Committee constituted by the State Government under Store Purchase Preference Rules and the Appellate Committee after hearing the parties allowed the appeal and vide order dated 16.5.1998 directed the respondent no. 2 to pay the dues without any further delay to the petitioner and on this order the consent of the industries Minister was also obtained as would be revealed from

annexure-10. Then also payments were not made although the petitioner had given several notices including legal notice, as contained in annexure-1. In the meantime, under the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993, the Government of Bihar constituted industry Facilitation Council to look into all such type of cases like that of the petitioner wherein the petitioner had made representation for redressal of his grievances with interest. In its meeting dated 15.3.2001 the said Committee decided as per the orders passed by the State Appellate Committee that the respondents are liable to pay Rs. 7,82,211.63 paise and they are also liable to pay interest on the said amount as provided u/s 4/5 of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993. The order is annexed as annexure-12 but still then no payment has been made. After calculating the interest the petitioner had given notice to pay the dues of Rs. 54,45,399.14 paise but to no effect and hence the present writ petition has been filed. In the counter-affidavit the respondents have taken various pleas which they were taking before the appellate authorities also that the materials were not being found in proper condition and as per terms and conditions of the agreement.

2. The main point first of all urged is that the present writ petition is not maintainable as the same arises out of a pure contractual agreement between the respondents and the petitioner having no statutory obligation and public element is involved in it. Normally in such sort of contractual matter courts are very reluctant to entertain such claims under Article 226 of the Constitution of India as per decision of the Apex Court as reported in 1989 (SC) 1076. But in the present case it appears that some public element is involved in it and the rights of the petitioner as per Article 19(g) of the Constitution of India are being traversed. In that way, the present writ petition can be entertained and it appears that in similar circumstances when the Appellate Committee constituted by the State authority and also the Facilitation Committee as per the Interest on Delayed Payment Act had given verdicts in favour of the petitioner then there remains no other alternative on the part of the respondents-authority to make payment. In such similarly situated matter a Bench of this Court ordered to make payment on the basis of the order being given by the State Appellate Authority and also by the Conciliation Committee under the Interest on Delayed Payment Act, as mentioned above. The said case is reported in Binay Prakash Singh Vs. State and Another, . There is also another order in the same line in favour of M/s Bharat Agriculture and Mechanical Co. in C.W.J.C. No. 5704 of 1999. The petitioner's case is squarely covered by those orders of this Court.

3. In that way, the present writ petition is hereby allowed directing respondent no. 2 to make payment of the dues of the petitioner as per the orders passed by the State Appellate Authority and the Facilitation Committee under the Interest on Delayed Payment Act, as mentioned, forthwith and if payment is not made within a period of one month from the date of presentation of a copy of this order from the side of the petitioner then respondents-authority shall be liable to pay up further interest on the amount as per the Interest Act itself. This writ

petition is disposed of accordingly.