

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20208 of 2014

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Jay Prakash, son of Late Prof. Ram Vilas Karak, Resident of Mohalla-
Gandhi Chowk, Ward No. 12, P.O. and P.S. Madhubani, District-
Madhubani

.... Petitioner/s

Versus

1. The State Election Authority, Bihar, Patna through the Secretary
2. The Chief Election Officer, The State Election Authority, Bihar, Patna
3. The Secretary, The State Election Authority, Bihar Patna
4. The District Election Officer (Cooperative Society), Madhubani-cum-
District Magistrate, Madhubani, District- Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam, Adv.

For the Respondent/s : Mr. Mukesh Kumar

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 15-01-2015 Heard learned counsel for the parties as with regard to
the following prayer made in this writ application:-

"1(I) *For issuance of an appropriate writ in the nature
of MANDAMUS, commanding and directing the
Respondent Authorities for payment of bills raised
by the petitioner against the printing of ballot
papers for holding 2009 General Elections of
Primary Agriculture Credit Cooperative Society in
the District of Madhubani which they have not
paid to the petitioner since 2009 despite repeated
request of the writ petitioner.*

(II) *For issuance of an appropriate writ in the nature
of MANDAMUS, commanding and directing the
Respondent Authorities to pay the aforesaid
amount with interest at the rate of 12% per annum
since they have deliberately not paid the amounts
raised by the petitioner and is lying with them*

since 2009 when the petitioner has to pay interest to the persons from whom he had raised this fund for printing and supply of ballot paper to the Respondents."

This Court earlier on 3.12.2014 had directed the respondents to take instruction and file counter affidavit. Today, learned counsel for the Bihar State Election Authority has produced the letter dated 8.12.2014 to show that necessary allotment of Rs. 5,79,464/- has already been released in favour of the Collector of Madhubani district for making payment to the petitioner.

Mr. S.B.K. Manglam, learned counsel for the petitioner submits that the aforesaid amount of Rs. 5,79,464/- will fall short of the expectation of the petitioner because the petitioner had raised bill for a sum of Rs. 6,82,206/- and Rs. 87,775/- vide Annexure Nos. 5 & 6 respectively to the writ application. He has also submitted that the amount quantified either by the Collector of Madhubani district in his letter to the State Election Authority dated 29.11.2014 or the order of the Election Authority dated 8.12.2014 for a sum of Rs. 5,79,464/- is factually incorrect.

This Court however find it inappropriate to go into the disputed issue of the quantum of the bill, in exercise of power under Article 226 of the Constitution of India more so with regard



to money claim, keeping in view ratio laid down by division bench of this Court in the case of M/s BASF Vs. State of Bihar reported in 1992(2) PLJR 714 based on the law laid down by Apex Court in the case of Radhakrishna Agrawal & Ors. Vs. State of Bihar & Ors., reported in AIR 1977 SC 1496.

The case of the petitioner that it was not paid the amount for printing of the ballot paper for election of the year 2009 was infact examined by this Court only as an admitted payment and if the Collector of Madhubani district has quantified such amount to only Rs. 5,79,464/-, it may be still open for the petitioner to satisfy the Collector of Madhubani district that the petitioner was entitled for some more amount as being claimed in Annexure 5 & 6 to the writ application but, for the time being, this Court will not give any finding as with regard to total admissibility of the claim of the petitioner as per Annexure 5 & 6 of the writ application.

That being so, when the petitioner has already been paid Rs. 5,79,464/- and has also not pressed for payment of interest, this writ application is disposed of with a liberty to the petitioner to file a representation before the Collector for rest of the amount being claimed by him in this writ application and if the Collector of the district is satisfied with regard to such claim, he

may also take decision for its payment to the petitioner in accordance with law. This exercise, however, must be completed by the District Magistrate within a period of three months from the date of receipt of this order and if the amount is not found payable, a communication to the petitioner shall be made within the aforesaid period of three months whereafter the petitioner will have no other remedy save and except to move the competent civil court of appropriate jurisdiction for adjudication of his disputed money claim.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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