IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.907 of 2014

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Ram Kumar Singh, Son of Late G.P. Singh, Resident of Besides Rajput Bhawan, Dhansar, P.S. Bank More, Dhanbad, District- Dhanbad

.... Petitioner/s

Versus

1. Bihar State Financial Corporation, Fraser Road, Patna through its Managing Director
2. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
3. Deputy Manager I/C (Zono-III), Bihar State Financial Corporation, Fraser Road, Patna
4. Branch Manager, Bihar State Financial Corporation, Branch Office, Bokaro

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Chandra Bose, Advocate.
For the Respondent/s : Mr. Amlesh Kumar Varma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-11-2015

Heard learned counsel for the petitioner and the Respondents.

2. The present writ petition has been filed for quashing the demand of grace period penalty purportedly under the OTS Scheme 2006 amounting to approximately Rs. 97,168/-.

3. Learned counsel for the petitioner submits that the last date for filing the application under the OTS 2006 was 5.2.2007 but since the respondent Corporation wrongfully declined to accept the application of the petitioner within the due date, the petitioner was forced to move this Court in C.W.J.C. No. 666 of 2007 which was disposed of by this Court in its order dated 12.02.2007 along with analogous cases, *inter alia*,

directing the respondent Corporation to accept the application forms if the same were submitted by 20.02.2007.

4. Learned counsel for the petitioner submits that in view of the direction of this Court as aforesaid, the respondent BSFC was duty bound to accept his application form unconditionally by the cut off date fixed by this Court, which order in the present case has admittedly been complied with on 19.02.2007 by the petitioner.

5. Learned counsel for the respondent BSFC, on the other hand, submits that in compliance of the direction of this Court, the application form of the petitioner has been accepted. There is however no infirmity or illegality in the demand for the grace period penalty which was contemplated in terms of Clause-6 of the OTS 2006 itself.

6. Having heard the parties and upon consideration of the materials on record, this Court is unable to accept the plea on behalf of the respondent Corporation. It is not in dispute that the petitioner was not eligible to file its application form within the due date namely 5.2.2007 by reason of the relevant condition as contained in Clause F(i) of the modified OTS Scheme 2006, which condition came to be quashed only subsequently by the aforesaid order of this Court dated 12.02.2007. Thus, the petitioner became eligible to file the application only after passing of the order by this Court, and

cannot be faulted for not having observed the deadline of 5.2.2007 in such circumstances, and duly complying with the time frame set by this Court for filing the application. The respondent BSFC also did not choose to seek a clarification with regard to the petitioner's liability for grace period penalty at the time of disposal of the said writ petition, which cannot now be sought to be recovered from the petitioner.

7. In the above view of the matter, the impugned letter dated 13.12.2013 requiring the petitioner to make payment of grace period penalty with respect to his application under OTS 2006 is hereby quashed, with a direction to the respondent BSFC to return the relevant documents along with no dues certificate to the petitioner without undue delay and in any event within a period of two weeks within the date of receipt/production of a copy of this order.

8. The writ petition accordingly stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

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