

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10973 of 2014

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Sunil Kumar Singh son of Kamakhya Singh resident of Village - Barka
Baraj Tola, P.S. - Rivilganj, Dist. - Saran.

.... Petitioner/s

Versus

1. The Chief General Manger, Reserve Bank of India.
2. The General Manager, Operation Bandhan Financial Service Private Limited.
3. The Deputy General Manager, Operation Zone.
4. The Regional Manager, Bandhan Financial Service Pvt. Ltd.
5. The Assistant General Manager, H.R.D. Bandhan Financial Service Pvt. Ltd.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate.

For the Respondent/s : Mr. Ashok Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 07-09-2015

Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application

reads as follows:

"1.I. For issuance of writ/writs in the nature of CERTIORARI for quashing the letter dtd. 23.4.14 issued by Assistant General Manager, H.R.D., Bandhan Financial Service Pvt. Ltd.(respondent no. 5) by which the petitioner was terminated the service.

II. For issuance of writ/writs in the nature of MANDAMUS for a direction to the respondent authorities to restrain the petitioner on the post for which he entitled for because termination of the petitioner is not proper in the eye of law.

III. Ask show cause or explanation to the respondents as to why petitioner was terminated from the service without asking show cause."

3. Before the learned counsel for the petitioner could

make his submissions, learned counsel for the respondents have raised preliminary objection with regard to maintainability of the writ application on the ground that the petitioner being an



employee of a private company, namely, Bandhan Financial Service Pvt. Ltd. (hereinafter referred to as 'the company') the writ application, against order of his termination passed by the aforesaid company, is not maintainable because the said company is not a 'State' within the meaning of Article 12 of the Constitution of India.

4. Learned counsel for the petitioner, however, tried to justify the filing of the writ application on the ground that said company, being registered with the Reserve Bank of India and also having licence for doing its business as a non-banking financial company under the orders of the Reserve Bank of India, the same would also be having the trappings of the State.

5. In the considered opinion of this Court, the preliminary objection raised by the learned counsel for the respondents has to be upheld. From the documents on record enclosed with the writ application it is absolutely clear that the appointment of the petitioner was made by the company which was out and out a private organization. In fact, the appointment letter of the petitioner dated 02.03.2009, contained in Annexure-1 giving the contractual assignment of the petitioner or its periodical extension on 02.09.2009, 26.02.2010 or the order of promotion of the petitioner dated 16.08.2010, 06.02.2012 and 20.12.2011, will



also leave nothing for speculation that the petitioner was only an employee of the company. Such company, being a private company in terms of the Companies Act having its head office in the city of Kolkata in West Bengal, does not fulfil any of the test and/or ingredient laid down by the Apex Court in the case of ***Ajay Hasia vs. Khalid Mujib Sehravardi & Ors.*** reported in ***AIR 1981 SC 487*** as also in the case of ***Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology & Ors.*** reported in ***(2002) 5 SCC 111.***

6. The submission of learned counsel for the petitioner that the Reserve Bank of India had given licence to the employer of the petitioner is neither here nor there. The Reserve Bank of India, in fact, has been granting licence even to non-banking financial companies and, therefore, on the basis of mere granting of licence to the company, it cannot acquire the status of 'State' within the meaning of Article 12 of the Constitution of India. The test to be fulfilled for its being held as a 'State' within the meaning of Article 12 of the Constitution of India, has already been laid down by the Apex Court in the case of ***Ajay Hasia*** (supra) as also in the case of ***Pradeep Kumar Biswas*** (supra) and having regard to the constitution of the employer of the petitioner, namely, Bandhan Financial Service Pvt. Ltd., this Court will have no

difficulty in holding the same is not a 'State' within the meaning of Article 12 of the Constitution of India and the law laid down by the Apex Court in the aforementioned judgment in the case of *Ajay Hasia* (supra) and *Pradeep Kumar Biswas* (supra).

7. Thus, for the reasons indicated above, this writ application must fail and is, accordingly, dismissed with an observation that nothing said in this order shall come in the way of the petitioner in taking recourse to enforcing the terms and conditions to his contract of service and/or its termination, by taking recourse under ordinary law by way of filing of suit before the Civil Court of competent jurisdiction.

(Mihir Kumar Jha, J)

Sujit/-

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