

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19947 of 2011

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Mulidhar Tiwary S/O Late Gopal Tiwary Resident of Mohalla-Purani Dharmshala
Road, Mangal Bazar, Nabinagar, P.S.-Nabinagar, District-Aurangabad.

.... Petitioner

Versus

1. The State of Bihar.
2. The Managing Director-Cum-Secretary, Aurangabad, District Central Co-Operative Bank Limited, Aurangabad.
3. The District Co-Operative Officer-Cum-Certificate Officer, Aurangabad.
4. The District Certificate Officer, Aurangabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. BHANU PRATAP SINGH, ADVOCATE

For the Respondent/s : AAG 9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-10-2015

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. I.A. No. 1910 of 2012 has been filed with a prayer to permit the petitioner to implead the District Certificate Officer, Aurangabad as Respondent No. 4 in the writ petition.

3. The prayer is allowed. The petitioner is permitted to implead the District Certificate Officer, Aurangabad as Respondent No. 4 in the writ petition in course of the day.

4. The present writ petition has been filed for a direction to the respondents to stop the proceeding of Certificate Case No. 1/2009-10 pending before the District Co-operative Officer, Aurangabad-cum-Certificate Officer for recovery of Rs. 5,82,513/- and for a direction to adjust the same from the arrears of salary due to the petitioner.

5. At the outset learned counsel for the petitioner confines his prayer for adjustment of the amount in question against his due arrears of salary. A submission is made at the Bar on behalf of the petitioner that an amount of Rs. 9,90,284/- has fallen due towards arrears of salary payable to the petitioner as evident from letter No. 17 dated 07.01.2012 issued by the Managing Director, Central Co-operative Bank Limited, Aurangabad.

6. Learned counsel for the Respondent State appears and has been heard.

7. This Court makes no observation with regard to whether or not the said amount of Rs. 9,90,284/- is due by way of arrears of salary to the petitioner, as such letter has not been brought on record. However, if payment of such an amount is in fact due to the petitioner against arrears of salary, the same could have been adjusted against the dues sought to be recovered through certificate proceedings.

8. In the above view of the matter, the present writ petition is disposed of with a direction to the District Certificate Officer, Aurangabad to examine the claim of the petitioner with regard to dues of arrears of salary and in case if it is found to be so due, the same should be adjusted against the outstanding dues against the petitioner before proceeding for recovery of the certificate amount against any other assets and properties of the petitioner.

(Vikash Jain, J)

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