

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2706 of 2014

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Savitri Devi, W/O- Late Girija Nandan Sharma, Plot No. - B-47, Biscomaun Karmchari Grih Nirman Samity Ltd. Village- Sandalpur, P.S. - Alamganj, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary Co-operative Department, Govt. of Bihar, Patna.
2. The Bihar State Co-operative Marketing Union Ltd., Patna, At- Biscomaun Bhawan, West Gandhi Maidan, P.S.- Gandhi Maidan, District- Patna, through its Administrator.
3. Managing Director, the Bihar State Co-Operative Marketing Union Ltd., Patna At- Biscomaun Bhawan, West Gandhi Maidan, P.S.- Gandhi Maidan, District- Patna.
4. Secretary, the Bihar State Co-Operative Marketing Union Ltd., Patna At- Biscomaun Bhawan, West Gandhi Maidan, P.S.- Gandhi Maidan, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Mohan Mishra
For the Respondent-State : Mr. R.R. K Pandey, SC-29
Mr. Nagendra Sharma, AC to SC-29
For the respondent-BISCOMAUN: Mr. A.N. Deo

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 27-08-2015 Heard Mr. Krishna Mohan Mishra, learned counsel appearing on behalf of the petitioner, learned counsel for the State and Mr. A.N. Deo, learned counsel appearing for the Bihar State Cooperative Marketing Union Limited.

The petitioner is aggrieved by the order bearing Memo no.2664 dated 5.12.2012 of the Managing Director of the Bihar State Cooperative Marketing Union Limited, Patna (hereinafter referred to as 'the BISCOMAUN') whereby the

lease executed in favour of the petitioner by the respondent-BISCOMAUN has been cancelled for alleged violation of the terms and conditions of the lease.

Mr. Krishna Mohan Mishra, learned counsel appearing for the petitioner has tried to question the order passed by the Managing Director by relying upon a Bench decision of this Court in CWJC No.13388 of 2012 (Biscomaun Karamchari Sahkari Grih Nirman Samitee Limited Patna vs. The State of Bihar) whereunder this Court has held that the Managing Director of the BISCOMAUN as an Arbitrator cannot suo-motu exercise such power but the judgment so relied upon by Mr. Mishra arising out of CWJC No.13388 of 2012 was passed at a stage where the BISCOMAUN stood superseded and was under the administration of Administrator and thus a writ was maintainable.

Even if the points so raised by Mr. Mishra would stand discussed in the judgment but considering that presently the Managing Committee stands constituted and the BISCOMAUN is functional the remedy for the petitioner would lie before the Registrar, Cooperative Societies under section 48 of the Bihar Cooperative Societies Act, 1935 by raising a dispute

but in view of the Special Bench judgment reported in **2014(1) PLJR 695 (The Organizer, Dehri C.D. & C.M. Union Limited vs. The State of Bihar)** the writ petition is held not maintainable and is disposed of accordingly.

(Jyoti Saran, J)

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