

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21855 of 2014

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1. Dhananjay Kumar Jha Son of late Shyama Nand Jha, Chairman of Jamdaha PACS, Block- Katoria, District- Banka.
 2. Ghanshyam Kapri, Son of Shri Nand Kishore Kapri, Manager of Jamdaha PACS, Block- Katoria, District- Banka.
- Both are at present resident of village- Patwara, P.S.- Katoria, District- Banka (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Registrar, Co-operate Department, Government of Bihar, Patna.
3. The District Co-operative Officer-cum-Certificate Officer, Bhagalpur.
4. The Managing Director, the Bhagalpur Central Co-operative Bank, Bhagalpur.
5. The Enforcement-cum-Circle Officer, Circle- Katoria, District- Banka.
6. The Branch Incharge, Central Co-operative Bank Ltd, Branch- Katoria, District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Mishra, Advocate.

For the Respondent/s : Mr. Ajit Pratap Singh, SC 15

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 07-01-2015

Heard learned counsel for the parties as with regard to the

following relief prayed in this writ application:

"1.(i) For quashing entire proceeding of Certificate case no. 13/13-14 including its order dated 14.03.2014 as it has been passed without jurisdiction in as much as the petitioners would not get justice in the hands of an officer of the certificate holder itself acting as a certificate officer viz-a person cannot be judge of his own case."

2. Learned counsel for the petitioners has submitted that the impugned order passed by the certificate officer is not sustainable on two scores, firstly, on account of the certificate officer, being himself the Managing Director of the Bhagalpur Central Co-operative Bank, Bhagalpur, on whose requisition the certificate case has been lodged. He has also submitted that in any event the certificate proceeding could not have been maintainable in the district of Bhagalpur because the

branch of the bank, from which the petitioner had taken loan, falls within the district of Banka.

3. Learned counsel for the State, on the other hand, has submitted that the order, which has been passed on 14.03.2014 fixing the liability of the petitioner, is an appellable order in terms of Section 60 of the Bihar Public Demand Recovery Act and as such the writ application is wholly misconceived and ill-advised.

4. In the considered opinion of this Court, the plea of bias and/or jurisdiction ought to have been necessarily raised by the petitioners in their objection filed before the certificate officer. The objection, which has been filed by the petitioners, as contained in Annexure-10 of the writ application, does not raise either of the two grounds which have been advanced by the learned counsel for the petitioners only before this Court. As a matter of fact, in the objection the petitioners had gone on the merit of the demand of the amount by the authorities of bank.

5. In that view of the matter, this Court cannot allow the petitioners to urge such point which was not even raised by them before the certificate officer. Moreover, the plea of bias cannot be raised merely on assumption that the certificate officer, being an officer of the bank, will be always prejudiced to act in favour of the bank. The requisition was never filed by the certificate officer and, in fact, it is the Branch Manager who had filed the requisition. Therefore, this Court, in the facts of the present case, does not find the plea of bias to be justified.

6. Coming to the issue of jurisdiction of the certificate officer in entertaining the certificate case in Bhagalpur, all that has to be noted is that the certificate case of the bank, whether at Bhagalpur or Banka districts, have been collectively authorized by the Collector of the District to the Managing Director of the bank in exercise of his power under Section 59 of the Act. Therefore, it is not a case where the certificate officer of a district has entertained the certificate case. In the case of special authorization of an institution, if the petitioner had taken loan from a Branch of the other district whose jurisdiction definitely falls within the power and jurisdiction of the Managing Director exercising power of certificate officer, such a certificate case could have also been entertained at Bhagalpur.

7. Be that as it may, since the impugned order dated 14.03.2014 is an appellable order, this writ application is definitely misconceived and ill-advised and in fact also not maintainable in view of law laid down by division bench of this Court in the case of **Sawar Mal Choudhary & Ors. Vs. State Bank of India & Ors** reported in 1986 PLJR 660.

8. Thus for the aforesaid reason this application fails, and is, accordingly dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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