IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15485 of 2010

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Jai Govind Sharma S/O Late Dhanushdhari Mehta R/O Mohalla-Bhikhanpur Gumti No.2, P.S.- Kotwali in the District of Bhagalpur, C/O M/S Graduate Engineers, Large Industrial Estate, Bhagalpur-3

.... Petitioner/s

Versus

1. The State Bank of India Rasmecsark Administrative Office Building, 3rd Floor, Khanjarpur, Bhagalpur through its Additional General Manager
2. The Additional General Manager, State Bank of India, RAMSEC SARC, Administrative Office Building, Bhagalpur Branch, 3rd Floor, Khanjarpur, Bhagalpur
3. The Branch Manager, State Bank of India, Bhagalpur Branch

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Gopal Prasad Roy, Advocate
For the Respondent/s : Mr. Arbind Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

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7 13-04-2015 Heard the parties.

2. The matter at issue in the present proceeding filed under Article 226 of the Constitution of India is the claim of the petitioner for settlement of his account under "Small & Medium Enterprises B U SBI Scheme for One Time settlement of NPAs in SME (SBI OTS-SME,2010)" dated 5th March, 2010, which has been brought on record as Annexure-A to the counter affidavit filed on behalf of the respondent Bank.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner is borrower of the respondent State Bank of India, Bhagalpur Branch and account of the petitioner was classified as NPA in the year 1979 itself. It is the case of the petitioner that the respondent State Bank of India came with a scheme for one time settlement of such NPAs under the aforesaid scheme (Annexure-A to the counter affidavit), which has been referred to above. According to the learned counsel, the petitioner applied for settlement of his account under the aforesaid scheme after depositing the requisite amount, but contrary to the provisions of the aforesaid scheme itself, his claim was not processed, rather it was arbitrarily rejected vide communication dated 10.09.2010 issued by the Assistant General Manager of the respondent State Bank of India, as contained in annexure-D to the counter affidavit. It is also pleaded by the learned counsel for the petitioner that the petitioner had filed comprehensive representations on 13.08.2010 as also on 06.09.2010 (Annexures-7 and 8 respectively) to the respondent Branch Manager, but without examining the aforesaid one time settlement scheme of the respondent Bank, the Assistant General Manager of the Bank has refused to consider the case of the petitioner and refused to grant the benefit under the aforesaid one time settlement scheme.

4. The matter has been contested by the respondent State Bank of India and its functionaries by filing a counter affidavit. According to them, the petitioner does not fulfill the conditions for one time settlement scheme of the respondent Bank and he is not prepared to pay the requisite amount which was required to be deposited by him under that scheme, therefore, his claim was not processed and was finally rejected.

5. After having heard the parties at some length and on going through the materials on record as also the circular of the respondent Bank regarding one time settlement of NPAs (Annexure-A to the counter affidavit), this Court finds that there appears to be some disputes between the parties regarding calculation of outstanding debts of the respondent Bank as also regarding the amount which was required to be deposited by the petitioner for grant of benefit to him under the aforesaid one time settlement scheme. Admittedly, the account of the petitioner was classified as NPA more than three decades earlier. It would be in the interest of the Bank also that the dispute is settled under the aforesaid Scheme, as the respondent Bank has not been able to recover its due debts from the writ petitioner. The scheme itself was brought for that purpose. However, this Court further finds that the provisions of the aforesaid scheme vis-à-vis the claim of the petitioner are required to be examined afresh, so that the dispute between the parties comes to an end once for all.

6. Taking into consideration the aforesaid factual matrix of this case, this Court directs the petitioner to appear before the Deputy General Manager, State Bank of India, RASECC SARC, Bhagalpur within a period of four weeks from today with a comprehensive representation with all supporting documents regarding non-consideration of his claim for one time settlement under the aforesaid scheme as contained in Annexure-A to the counter affidavit. He shall also place all the relevant materials to show that, in fact, he had applied within the time prescribed and fulfilled all the conditions for one time settlement, yet his claim was not processed and accepted by the authority of the State Bank o f India.

7. If the petitioner appears within the aforesaid period of four weeks with a certified copy of the present order in the manner indicated above, then the Deputy General Manager of the respondent Bank shall be obliged to consider his claim after giving an opportunity of hearing to the petitioner as also the functionaries of the Bank, if so required, and shall dispose of the representation of the petitioner by a reasoned and speaking order at an early date preferably within a period of three months from the date of appearance of the petitioner.

8. If on consideration of the materials, the Deputy General Manager of the respondent Bank comes to a conclusion that the claims raised on behalf petitioner are admissible to him, then he shall issue the consequential order for grant of such admissible claims without any unnecessary further delay. It is clarified that while passing the fresh order, he shall take into consideration the provisions of one time settlement scheme dated 5th March, 2010 (Annexure-A) and shall bear in mind the interest of the Bank as also the borrower.

9. This is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner at this stage and this is left to be decided by the Deputy General Manager of the respondent Bank strictly in accordance with law as also in the light of the observations made above.

10. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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