

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10252 of 2013

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1. Rajiv Nayan Son Of Sri Arvind Kumar Resident Of At + P.O. Nalanda, Near Biscoman Godown, P.S.- Nalanda, District- Nalanda
 2. Anil Kumar Ghosh Son Of Sri Basudeo Prasad Resident Of At + P.O.- Pirauta, P.S.- Sirdala, District- Nawada

.... Petitioner/s

Versus

1. Union Of India Through Its Chief Secretary Financial Services
2. Governor, Reserve Bank Of India, New Delhi.
3. Institute Of Banking Personnel Selection Through Its Managing Director Having Registered Office At IBPS House, Near Thakur Polytechnic, 90 D.P. Road, Off Western Express Highway, P.B. No. 8587, Kandivali (E) Mumbai-400101
4. Director Operations, Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
5. Director Client Relations For Public Sector Banks, Kandivali(E), Mumbai-400101.
6. Director Client Relations For Other Than Public Sector Banks Of Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
7. Director, Design And Anaylysis, Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
8. Director, Research And Development, Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
9. Director, Processing And Technology, Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
10. Director, Support Services, Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
11. Chairman Of The Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
12. Secretary Of The Institute Of Banking Personnel Selection, Kandivali (E), Mumbai-400101.
13. Chief Secretary, Department Of Science And Technology Govt. Of India , New Delhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. N.A. Shamsi

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-08-2016

No one appears for the petitioners. Learned counsel for the I.B.P.S. is present. Yesterday also i.e. on 10.8.2016, learned counsel for the petitioner was not present and, on that count, today this case has been listed for orders.



I.B.P.S. is a public trust registered under the Bombay Public Trust Act, 1950, and also the Societies Registration Act, 1860. It is not a statutory body established under a specialized legislation. It is a completely autonomous body which is specialized in conducting test/selection process of personnel to participating banks and other organizations to fill the reported vacancies.

Learned counsel for the petitioners has submitted the issue of maintainability of the writ application came before different High Courts and consistently all the High Courts have taken one view that the writ application is not maintainable. Details has been given in paragraph no.5 of the counter affidavit, which reads as follows:-

"5. That the writ petition under reply is wholly misconceived as against respondent no.3 because IBPS does not fall within the definition of "the state" as defined in Article 12 of the Constitution of India. The Respondent/IBPS is a public trust registered under the Bombay Public Trust Act, 1950, and also the Societies Registration Act, 1860. It is not a statutory body established under a specialized legislation. It is a completely autonomous body which is specialized in conducting test/selection process of personnel to participating banks and other organizations to fill the reported vacancies. It cannot be said that this is a "public function" as that would mean every private organization engaged in recruitment would be subject to writ jurisdiction under Article 226. It has been held by the Hon'ble High Court of Bombay vide order dated 7.05.2014 passed in Writ Petition No.(L) 1042 of 2014 that



IBPS does not fall within the meaning of Article 12 of the Constitution of India. Recently in the case of Mr. Manoj Kumar Vs IBPS (Writ Petition no-2616/2014) and Mr. Arun Kumar Vs IBPS (Writ Petition no. 2617 /2014) the Hon'ble High Court of Bombay held vide judgments dated 13.11.2014 and 18.11.2014 that the writ petition is not maintainable against IBPS as it is not a State within the meaning of Article 12 of Constitution of India. Further, the Hon'ble Manipur High Court at IMPHAL in WP(C) No. 245 of 2014 vide its Judgment dated 08.08.2014 had also held that the Writ Petition was not maintainable against the answering Respondent. Further, the Delhi High Court in W.P.(C) 1384/2012 and W.P.(C) 3658/2012 in a controversy whether the petitioner, IBPS is a public authority within the meaning of Section 2(h) of the Right to Information Act, 2005 has vide its Judgment dated 15.10.2014 held that the impugned order dated 13.01.2012 passed by the CIC is set aside. Further, The Hon'ble High of Court of Madhya Pradesh, Bench at Indore in WP. No. 3023 of 2014 vide Judgment dated 09.03.2015 has also held that a writ is not maintainable against the respondent Institute. The Hon'ble High Court of Jharkhand at Ranchi in W.P.(S) No. 2327/2013 (Ruma Rani Sahay @ Reema Rani Sahay Vs Managing Administration, Institute of Banking Personnel Selection (IBPS) and W.P.(S). No 831 of 2014 (Jyoti Kumari & Others Vs. IBPS) vide its orders dated 21.5.2015 and 31.08.2015 respectively have also considered the stand of IBPS that a writ is not maintainable against the respondent IBPS. Recently, the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 2211/2016 (Rajesh Pappy v/s Union of India & Another) vide its order dated 31.03.2016 has held that in view of the clear and

specific stipulation, this Court has no jurisdiction to entertain the present petition. Even otherwise also, the writ petition is not maintainable as the respondent No.3 is not a 'State' within the meaning of Article 12 of the Constitution of India."

In that view of the matter, this writ application is not maintainable and is, accordingly, dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.8.2016
Transmission Date	NA