

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.863 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 3919 of 2007

Along with

Interlocutory Application No.3654 of 2015

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1. The Bihar State Cooperative Land Development Bank Limited, presently known as Multi State Cooperative Land Development Bank Ltd. Bihar-Jharkhand, Budh Marg, Patna-1, through its Chairman.
 2. The Chairman, the Bihar State Cooperative Land Development Bank Limited, presently known as Multi State Cooperative Land Development Bank Ltd. Bihar-Jharkhand, Budh Marg, Patna-1.
 3. The Managing Director, Bihar State Cooperative Land Development Bank Limited, presently known as Multi State Cooperative Land Development Bank Ltd. Bihar-Jharkhand, Budh Marg, Patna-1.
 4. Deputy Managing Director-cum- Enquiry Officer, Bihar State Cooperative Land Development Bank Limited, presently known as Multi State Cooperative Land Development Bank Ltd. Bihar-Jharkhand, Budh Marg, Patna-1.
 5. The Secretary, Bihar State Cooperative Land Development Bank Limited, presently known as Multi State Cooperative Land Development Bank Ltd. Bihar-Jharkhand, Budh Marg, Patna-1.

.... Respondents . 3 to 7-Appellants

Versus

1. Ramvilash Mahto, son of late Akaloo Mahto, resident of village-Saidpur, P.S.- Nawada, Distict-Nawada.

... .. Writ petitioner-Respondent.

2. .The State of Bihar, through the Registrar Co-operative Societies, Bihar, Patna.
3. The Registrar Cooperative Societies, Bihar, Patna.

.... Respondents 1 and 2- Respondents

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Appearance :

For the Appellants

:

Mr. Y. V. Giri, Senior Advocate

Mr. Rajesh Prasad Choudhary, Advocate

For the Respondents-State : Mr. M. N. H. Khan, S. C.-1
Mr. Md. Irshad, A.C. to S.C.-1

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
And
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 18-08-2016

Re.: Interlocutory Application No.3654 of 2015

The application is for condonation of delay of 309 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.863 of 2015

The challenge in the present Letters Patent Appeal is to an order dated 22nd October, 2013 whereby the order of punishment dated 28th of December, 2006 was set aside.

2. Learned counsel for the appellants vehemently argued that the respondent-writ applicant had filed an appeal before the Chairman in terms of the Service Rules and also before the Registrar under the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as 'the Act'). Though the remedy of appeal under the Act ceases to

be available to the employee consequent to enactment of Multi-State Co-operative Societies Act, 2002, but the appeal before the Chairman was pending when he invoked the writ jurisdiction of this Court. It is, thus, contended that in view of the alternative remedy availed by the writ applicant, the writ Court should not have interfered with the order of punishment.

3. We do not find any merit in the said argument. A representation against the order of punishment dated 28th of December, 2006 was filed on 1st of February, 2007 before the Chairman of the Corporation. But the same has not been decided even almost six years before the writ Court interfered with the order of punishment.

4. Still further, it is well settled that availability of alternative remedy does not bar the jurisdiction of the writ Court. In an appropriate case, the High Court can interfere in respect of an action taken even if alternative remedy is available. Therefore, for long inaction of the appellants to take any decision on the representation, there is no error when this Court exercised writ jurisdiction.

5. Learned Single Bench has interfered with the order for the reason that though the enquiry officer exonerated the employee, but without recording any disagreement note and its communication to the delinquent, the order of punishment has been passed. The appellants could not raise any meaningful argument to rebut such finding which is

in consonance with the principles of law enunciated by the Hon'ble Supreme Court in the case of Punjab National Bank & Ors. Versus. Kunj Behari Misra, (1998) 7 SCC 84.

6. In view of the fact that the reasons for disagreement were not communicated, we find that the order of punishment suffers from the vice of violation of principles of natural justice.

7. In view thereof, we do not find any merit in the Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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