

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23288 of 2011

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1. Thakur Prasad Son Of Late Sitan Mahto Resident Of Village - Dariyapur,
Post - Barhog, P.S. - Bind, District – Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar through Secretary, Co - Operative Department, Patna - Bihar
2. The District Magistrate Nalanda
3. Mirachak Primary Agriculture Co-Operative Society Ltd. Bind (Nalanda), Represented Through Its Chairman/President/Secretary
4. District Co-Operative Officer Biharsharif (Nalanda)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Jha

For the Respondent/s : Mr. Rajesh Singh Gp16

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 05-09-2016 Heard the Counsel for the petitioner and Mr. S.K. Ranjan for respondent no. 4. Although respondent no. 3 has entered appearance on notice but no one has appeared on his behalf.

Petitioner claims to have deposited certain amount with the Mirachak Primary Agriculture Cooperative Society Ltd. Bind, Nalanda (for short “PACS”). It is stated that the fixed deposit matured on 12.09.2004 but the proceeds have not been made to the petitioner in spite of diverse requests. The writ application prays for a mandamus upon the PACS to ensure payment of the petitioner’s dues.

A counter affidavit on behalf of respondent no. 4 is filed. Mr. Ranjan draws attention of the Court to the averments made in



paragraph 6 wherefrom it appears that the Cooperative Department got the accounts of the Mirachak PACS audited wherein it came to light that the then PACS Manager Ramchandra Kevat had defalcated huge amount of PACS including the money deposited by the farmers/depositors and without obtaining any No-Objection has joined the service of the state government as an Assistant in Supaul district of Bihar. Having found so, an F.I.R. has been lodged against him in the year 2006 inasmuch as a certificate case being Case No. 53/2011-12 has also been initiated to recover the dues in which distress warrant etc. has been issued against him by the Certificate Officer. The district administration of Supaul has also been requested by diverse communications to take appropriate action against the then PACS Manager (Ramchandra Kevat). It is further stated that in the service records of Ramchandra Kevat, an entry has been made to the effect that he is liable to pay a sum of Rs. 12,65,881.00/-.

On going through the pleadings on record and after hearing both sides, it appears that the PACS Manager who received the deposit of the petitioner has defalcated the government fund including the deposits for which appropriate step/action has already been taken.

Considering the same, in my view, the relief prayed for in

the application cannot be granted. The money was receipted by the PACS Manager who defalcated the amount. Appropriate proceedings have already been levied against him. In exercise of extraordinary writ jurisdiction, it would not be appropriate in these factual background to issue a writ of mandamus. That apart, the issue is being raised before this Court several years after the fixed deposit had matured.

Granting the petitioner liberty to agitate his grievance before appropriate forum/authority, the writ application stands disposed of.

(Kishore Kumar Mandal, J)

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