

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1939 of 2016

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1. The State Of Bihar through the Secretary, Department of Cooperatives, Govt. of Bihar, Patna
 2. The Registrar, Cooperative Societies, Bihar, Patna
 3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna

.... Petitioner/s

Versus

1. Bihar Human Rights Commission, 9, Bailey Road, Patna through its Secretary
2. Dinesh Prasad Verma son of Late Vidhyapati Verma resident mohalla Patangali Sherganj P.O. and P.S. Sasaram, Rohtas
3. Champa Devi, W/o Late Tribhuwan Singh R/o village Sihauta P.O. Maharajganj, Siwan
4. Saraswati Devi W/o Late Nirdhan Rajak, R/o Karpuri Chowk, p.O. and P.S. Madhepura
5. Shyama Nand Jha, son of not known to the petitioners, retired Manager, Vidyapati Nagar, Ward No. 19, Saharsa
6. Shiv Narayan Sah, son of not known to the petitioners, retired PACS Manager, R/o Jai Prakash Nagar, Ward No. 6, Bus Stand, Near Ice Factory, P.O and P.S. Madhepura
7. Md. Azizur Rahman, son of not known to the petitioners Cooperative Banking Society Ltd. Gardanibagh, Road No. 21, Patna
8. Kameshwar Ram, Son of Not known to the petitioners Cooperative Banking Society Ltd. Gardanibagh, Road No. 21, Patna
9. Sanjay Kumar son of not known to the petitioners Cooperative Banking Society Ltd. Gardanibagh, Road No. 21, Patna
10. Ganesh Mandal son of not known to the petitioners Cooperative Banking Society Ltd. Gardanibagh, Road No. 21, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Mritunjay Kumar
AC to AAG 10

For the respondents S.N.Yadav
Awadhesh Kumar Pandit
Sanjay Kumar
Jyoti Prakash

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 11-07-2016

Heard Mr. Mritunjay Kumar for the petitioners and Mr. Yadav for the respondents.

Aggrieved by the order dated 06.05.2015 passed by the Bihar

Human Rights Commission (for short 'the Commission') in File Nos. BHRC/Comp.1888/09, 2422/09, 3239/11, 771/11, 3316/10, 1237/12 and 3973/12, the petitioners have filed the present writ application questioning the legality thereof.

On going through the order, this Court finds that the jurisdiction of the Commission to entertain such matter under section 12 of the Protection of Human Rights Act is not in dispute. The Commission after having noticed the order passed by the Apex Court in the matter of PACS Manager [since reported in 1999(1) PLJR 35 (SC)] passed the order for payment of salary. The Commission in the order noted as under:-

“This assertion of the Cooperative Department having been accepted by the Supreme Court means that all paid managers were to be given three chances to compete for getting a regular government job but a safeguard was created for those who would fail in all the three attempts. Such managers who could not get absorbed in accordance with the scheme approved by the Supreme Court had to be paid their salaries as they were being paid on August 20, 1998.

The respondents did not dispute that on August 20, 1998 the Government was taking the burden of salary of the managers. An order to the contrary was issued subsequently. In view of these facts the Government is bound to pay salary to the petitioners in accordance with the undertaking given before the Supreme Court which became basis for the directions of the Supreme Court dated August 20, 1998. If the Government wanted to get an escape from this order, they had to approach the Supreme Court.

Since under directions Supreme Court government is bound to pay the salaries of petitioners and the Commission is bound by Article 144 of Constitution of India to see that orders of the Supreme Court are followed, the Commission directs payment of unpaid salary and other benefits within eight weeks.”

The counsel for the petitioners tried to make submissions on the merit of the case. In the writ jurisdiction, the Court would not appreciate the facts of the case noticing the same the order was passed. Even otherwise, on going through the order it appears that the Commission has only directed for implementation of the order passed by the Hon’ble Supreme Court.

In my considered view, it is not a fit case where extraordinary and discretionary writ jurisdiction of the Court under Article 226 of the Constitution of India can be invoked.

The writ application is dismissed.

(Kishore Kumar Mandal, J)

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