

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5143 of 2011

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1. Abhijit Kashyap S/O Late Pandit Ram Narayan Shastri Proprietor of M/S Deep Shikha Gas Agency (Mobile Service Division), Authorized Franchisee of B.S.N.L. Gole Market, Rajendra Nagar, Police Station Kadamkuan, District Patna.

.... Petitioner/s

Versus

1. The Bharat Sanchar Nigam Limited through the Principal General Manager, 1st Floor, Telephone Bhawan, R-Block, Patna.
2. The Chief General Manager Telephone, Bharat Sanchar Nigam Limited, Sanchar Sadan, C.T.O., Patna.
3. The General Manager (Marketing), Office of the Chief General Manager, Bharat Sanchar Nigam Limited, 1st Floor, Sanchar Bhawan, Budh Marg, Patna.
4. The Deputy General Manager (Marketing), Office of the Principal General Manager, Bharat Sanchar Nigam Limited, 6th Floor, Telephone Bhawan, R-Block, Patna.
5. The Accounts Officer, Bharat Sanchar Nigam Limited, Ground Floor, C.T.O. Budh Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikas Mohan, Adv.

For the Respondent/s : Mr. J.P.Karn, AAG 4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-02-2016

Heard learned counsel for the parties.

The petitioner in this writ petition has prayed for a direction to the authorities of the Bharat Sanchar Nigam Limited (hereinafter referred to as the 'Corporation') for payment of Rs. 2,50,923/- stated to be the part of commission earned by the petitioner as being a franchisee of the Corporation.

The claim of the petitioner has been contested by the respondent authorities and paragraphs 1 to 6 of the counter affidavit

would be sufficient to refuse indulgence to the petitioner into default in payment of the dues.

It is mentioned that the petitioner had issued 8 sim cards to such consumers who went in heavy dues and which were never paid. The petitioner was informed by the respondent authorities on 19.5.2006 regarding the dues which had swelled up to Rs.2,50,923/- and upon which the burden was shifted to one R.K. Sahay who had authenticated the customership. The petitioner also claimed to have filed an information at the Kadamkuan Police Station against the said R.K. Sahay and informed that he is taking steps for collection of the amount. The petitioner vide letter dated 7.10.2006 informed the Department that he had collected a sum of Rs. 77,798/- and also filed an affidavit that he shall try to persuade the customers for payment of the remaining dues but took no steps. The petitioner was reminded vide letter dated 5.2.2007 and whereupon the petitioner returned with a letter expressing that the pending dues be adjusted from his security or the commission due with the BSNL. Such affidavit of the petitioner is present at Annexures-D and E of the counter affidavit filed on behalf of the Department. It is following such affidavit where the petitioner himself has accepted to the adjustment of the dues against his security and the commission that the adjustment has been carried out by the respondents.

In the circumstances discussed, the petitioner cannot claim arbitrariness in the part of the Corporation and even otherwise the responsibility is entirely his for recovery of the amount. No case for indulgence is made out.

The writ petition is disposed of.

(Jyoti Saran, J)

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