

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18151 of 2015

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1. Raghunandan Sao Son of Late Daroga Sah, Resident of Village Nohsa, P.O. Gurusaranpur, P.S. Ben, District- Nalanda.
 2. Md. Isa Son of Late Md. Hasan Resident of Village Firozpur, P.O. Andar, P.S. Andar, District Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
4. The Principal Secretary, Department of Co-operative, Government of Bihar, Patna.
5. The Registrar, Cooperative Societies, Bihar, Patna.
6. The Managing Director, State Cooperative Bank, Ashok Rajpath, Patna.
7. The Siwan District Central Co-operative Bank Ltd., Siwan through its Managing Director.
8. The Biharsarif District Central Co-operative Bank Ltd., Biharsarif at Nalanda through its Managing Director.
9. The Primary Agriculture Credit Co-operative Society (PACS), Bari Chharyari, Nalanda, through its Chairman/Secretary.
10. The Primary Agriculture Credit Co-operative Society (PACS), Andar, Siwan, through its Chairman/Secretary.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Narayan Yadav and Mr. Awadhesh Kumar Pandit, Advocates
For the State	:	Mr. Ajay Kumar Rastogi, A.A.G. 10 Mr. Parijat Saurav, A.C. to A.A.G.



For the Nalanda and Siwan : Mr. Uday Chand Prasad, Advocate
Central Co-operative Bank

For the Respondents No. 9 & 10 : Mr. Binod Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 15-03-2017

Heard learned counsel for the petitioners, State, respondents no. 7 and 8 as well as respondents no. 9 and 10.

The petitioners have moved the Court for quashing of order contained in Memo No. 224 dated 12.01.2015 passed by the respondent no. 3 by which the claim of the petitioners for enhancement of their age from 58 years to 60 years has been declined.

The petitioners are Managers of Primary Agriculture Credit Cooperative Societies (hereinafter referred to as the 'PACS') and had earlier moved the Court for the same relief in C.W.J.C. No. 1132 of 2013, in which by order dated 12.08.2014, the matter was disposed off with liberty to the petitioners to file representation before the present respondent no. 4 for giving them the benefit of enhancement of retirement age from 58 years to 60 years. The representation having been filed pursuant to the said order has been rejected by the impugned order. Further two reliefs sought by the petitioners relating to benefit of 5th and 6th Pay Revision and consequential benefits have not been pressed by the writ petitioners



with regard to which they are at liberty to represent before the authority concerned.

Learned counsel for the petitioners submitted that the order impugned is general in nature without considering the conditions of the particular PACS and thus, the same is fit to be set aside. He submitted that the State Government had already taken a decision to enhance the age of superannuation from 58 years to 60 years under Memo No. 1305 dated 15.05.2006, subject to five conditions, but the same had to be looked into individually with regard to each PACS whereas by the order impugned, without discussing as to whether each PACS in question satisfied the conditions as laid down in the aforesaid decision of the Government, only a general finding is there that the petitioners are not entitled to such relief. Learned counsel submitted that in the case of a similarly situated PACS in the District of Jamui, a resolution has been taken for enhancement of the age whereas in the case of the petitioners such decision has not been taken. Learned counsel submitted that the respondent no. 4 was obliged to take into consideration the facts and circumstances of the PACS in question and then decide as to whether the claim of the petitioners was *bona fide*.

Learned counsel for the State submitted that the representation filed by the petitioner no. 2 was only with a request to



enhance the age, without giving any details and the petitioners being Managers of the concerned PACS, were expected to be aware of the correct position of the PACS and further, with the requirement of the aforesaid decision of the State Government dated 15.05.2006. It was submitted that the petitioners had not given any details and, thus, rightly the respondent no. 4 has declined to grant any relief to them. Learned counsel further pointed out that the Government has taken a decision in general and it was open to the individual PACS to implement the order subject to them fulfilling the five criteria as laid down in the decision of the State Government dated 15.05.2006.

Learned counsel for the respondents no. 7 and 8 adopts the submissions of learned counsel for the State.

Learned counsel for the respondents no. 9 and 10 submitted that they have no objection to the relief claimed in the writ petition. The Court finds such stand to be highly objectionable and in fact collusive. The petitioners, who are Managers of the respective PACS i.e., respondents no. 9 and 10, being the Chief Executive Officer and the stand by the PACS in their favour is clearly collusive. Nothing has been brought on record to substantiate such claim by way of any document to show that all the five conditions in the letter dated 15.05.2006 are satisfied.

At this point, learned counsel for the petitioners



submitted that the matter be remanded to the PACS for fresh consideration. The Court is unable to accede to such request in view of the fact that in the present proceeding, the PACS has been found to be in collusion with the petitioners. Thus, the PACS has lost the faith of the Court that it would take an objective view in the matter moreso, for the reason that the petitioners are their Managers.

Faced with the situation, learned counsel for the petitioners submitted that the matter be remanded to the respondent no. 4, so that he may be able to take an objective view in the matter.

Having considered the matter, the writ petition stands disposed off by giving liberty to the petitioners to file a fresh representation before the respondent no. 4 with regard to the claim for enhancement of their age of superannuation from 58 to 60 years. It shall be incumbent upon the petitioners to furnish the entire details to indicate that the conditions stipulated in the decision of the State Government contained in Memo No. 1305 dated 15.05.2006 are fulfilled. If such representation is filed within four weeks from today, along with a copy of this order, the respondent no. 4 shall consider the same after getting the facts verified from the official records of the PACS in question. The respondent no. 4 shall not rely on the communication made by the concerned PACS in view of there being strong indication of collusiveness between the



petitioners and the PACS and shall rely only upon those facts which are verified from the records maintained by the PACS, and any other facts which may be stated, either by the petitioners or the concerned PACS, unless supported from the original records, would not be relied upon. A decision be taken within three months from the date of filing of the affidavit. It goes without saying that since the impugned order declining to accede to the request of the petitioners for enhancement of the age of superannuation from 58 to 60 years was passed in view of the facts stated in the order, which was more in light of no material being produced before the respondent no. 4, when a decision is taken by the respondent no. 4 afresh pursuant to the present order of remand, the order impugned dated 12.01.2015 shall not come in the way of such fresh consideration.

It is made clear that the Court has not expressed any opinion on the merits of the issue.

(Ahsanuddin Amanullah, J.)

P. Kumar

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