

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1036 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 23551 of 2013**

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Sri Nagendra Lal, Son of Late Praduman Lal, Resident of Village-Bharhulli, P.O.-
Kora, P.S. – Singhwara, District- Darbhanga

.... Appellant/s

Versus

1. The State of Bihar, through Secretary, Finance Department, Govt. of Bihar, Patna
2. The Managing Director, Biscomaun, Patna, Bihar
3. The Secretary, Employer Provident Fund Officer, Patna, Bihar
4. The Assistant Provident Fund Commissioner, (Pension), Patna
5. The Secretary, Bihar State Corporate Marketing Union Ltd., Patna

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. P.K. Verma, AAG-3
		Ms. Divya Verma, AC to AAG-3
For BISCOMAUN		Mr. Ishwari Singh, Advocate

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT**

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 28-01-2017

I.A. No.4307 of 2015

The application is for condonation of delay of 203 days
in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory
Application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay in filing the present Letters
Patent Appeal.



3. Consequently, Interlocutory Application No. 4307 of 2015 is allowed and delay in filing the Letters Patent Appeal is condoned.

L.P.A. No.1036 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 12th of August, 2014 in C.W.J.C. No. 23551 of 2013 wherein the claim of the appellant for a direction to the respondents to pay all the retiral dues remained unsuccessful.

2. Before the learned Single Bench, a counter affidavit was filed on behalf of respondent No.2 regarding some payments made to the appellant. In respect of the remaining issues, it was observed that they will be governed by the Division Bench direction.

3. The Division Bench in L.P.A. No.119 of 2015 has examined the right of the employees of the Bihar State Cooperative Marketing Union (hereinafter referred to as “BISCOMAUN”) to invoke the writ jurisdiction of this Court for payment of the dues including the contribution under the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952. Relying upon the Full Bench judgment of this Court reported as The Organizer, Dehri C.D. & C.M. Union Limited Vs. The State of Bihar & Ors, 2014 (1)



P.L.J.R. 695, it was held that such writ application is not maintainable even if the dues which are being claimed, are statutory dues under the E.P.F. Scheme.

4. However, learned counsel for the appellant argued before this Court that the BISCOMAUN is a 'State' as it is discharging public functions. Reliance was placed upon the Supreme Court order reported as Dr. Janet Jeyapaul v. SRM University and Ors., AIR 2016 S.C. 73.

5. We do not find that such judgment is applicable to the facts of the present case in view of the Special Bench judgment of this Court in The Organizer, Dehri C.D. & C.M. Union (supra) which has discussed all the judgments including the larger Bench judgments to take a view that BISCOMAUN is not a 'State'.

6. The judgment of the Supreme Court is in the context of a University which is a deemed University, under the University Grants Commission Act, 1956 and it was held to be a 'State' since it discharges public function whereas BISCOMAUN is a co-operative society and has been found not to have any of the attributes of the State within the meaning of Article 12 of the Constitution of India.

7. We do not either find any error in the order passed by the learned Single Bench or that the appellant is entitled to any



other relief in the present Letters Patent Appeal. The same is dismissed.

8. It shall be open to the appellant to avail such remedies as may be available in accordance with law.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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