IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9536 of 2018

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Satya Narayan Thakur, Son of Late Mahadev Thakur, Resident of Village-Baherwagachi, Naya Ganw, P.S.- Naya Ganw, District- Saran (Chapra).

.... Petitioner/s

Versus

1. The State of Bihar through Principle Secretary, Department of Education, Govt. of Bihar.
2. Jai Prakash University, Rahul Sanskritayan Nagar, Chapra, through its Registrar.
3. The Vice Chancellor, Jai Prakash University, Rahul Sanskritayan Nagar, District- Saran.
4. The Finance Officer, Jai Prakash University, Rahul Sanskritayan Naar, District-Saran.
5. The Branch Manager, Bank of Baroda, Chapra Branch, Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. J.P. Singh, Senior Advocate Mr. Dipak Kumar, Advocate
For the State	:	Mr. Arvind Kumar, AC to GP-23
For Bank of Baroda	:	Mr. Anshuman, Advocate
For J.P. University	:	Mr. Nagendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 24-09-2018

Learned counsel for the petitioner; State; J.P. University (hereinafter referred to as the 'University') and Bank of Baroda (hereinafter referred to as the 'Bank') have assisted the Court.

2. Pursuant to order dated 04.09.2018, counter affidavit has been filed on behalf of the Bank (respondent no. 5) in which it has been explained as to why there was delay in making payment to the petitioner.

3. However, at paragraph- 13, the following has been

stated :-

> *"13. That it is humbly submitted that amount of Group Insurance fund consists of both Bihar Government fund as well as J.P. University fund and as per order dated 09.08.2018 Bank has to pay altogether Rs. 2,36,781/- but due to insufficient J.P. University fund the said order dated 09.08.2018 could not be complied. For which Bank has orally intimated the incharge of Account Section several times. The same was complied only after oral instruction of Incharge of Account Section of J.P. University which was given on 28.08.2018 only."*

4. From the above, the Court is at a loss to understand as to what actually the deponent of the affidavit filed on behalf of the Bank has tried to convey to the Court. On the one hand, it has been stated that due to insufficient funds of the J.P. University, its order dated 09.08.2018 could not be complied for which the Incharge of Account Section of J.P. University was orally intimated several times. On the other hand, it has been stated that the same was complied only after oral instruction of Incharge of Account Section of J.P. University which was given on 28.08.2018. The Court, thus, is not able to comprehend as to how insufficiency of funds of the J.P. University was firstly orally communicated to the Incharge of Account Section and, thereafter, upon oral instructions of the Incharge of Account

Section of J.P. University, the same was complied. The Court fails to understand as to how insufficiency of funds in an account can be made good simply upon oral instructions. Further, the Court finds that the affidavit cannot be treated as an affidavit in the eyes of law for no responsibility has been taken as to which statements of the deponent are true to his knowledge and which are derived from the records.

5. The Court, thus, finds that the authorities of the Bank have not acted with due diligence in the manner as is required by them especially in Court proceedings. The Court deprecates such conduct. However, as finally, amount has been transferred in favour of the petitioner, the Court leaves the matter as such.

6. It appears now that all admitted dues of the petitioner have been paid to him. However, learned counsel for the petitioner submitted that the payments having been made after undue delay, he should be granted interest on the same.

7. The petitioner superannuated on 30.09.2014 and, thereafter, pension was paid on 05.05.2015, i.e., after about seven months. The Court finds it not to be serious enough to merit award of interest. However, with regard to Gratuity, the same was paid on 17.08.2018 and Group Insurance was paid on 28.08.2018 and that too, with interest only till September, 2014. Further, the amount of Earned Leave was also paid on 09.08.2018.

8. When the Court called upon learned counsel for the

J.P. University to explain the delay, the only ground taken was paucity of funds.

9. The Court may give some indulgence of some time while taking a call with regard to claim of interest but paucity of fund cannot be a ground for the Court not to grant interest on delayed payment.

10. Accordingly, the Court holds the petitioner entitled to payment of 9% per annum simple interest on delayed payment on the head of Gratuity, Group Insurance and Earned Leave. The same shall be for the period when they became due till the date of payment. The view of the Court is fortified by the decision of the Hon'ble Supreme Court in the case of ***D.D. Tiwari vs. Uttar Haryana Bulivitran Nigam Limited,*** *reported as* ***(2014) 8 Supreme Court Cases 894.***

11. The amount of interest be paid to the petitioner within one month from the date of production of a copy of this order before the Registrar of the University.

12. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

N.H./-

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