

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.770 of 2012

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1. Motipur Adhisuchit Kshetra Paschimi Primary Agriculture Credit Co-Operative Society Having Its Office At Village & P.O. Singhalia, P.S. Motipur, Distt . Muzaffarpur Through Sri Jai Mangal Singh, Chairman
 2. Jai Mangal Singh S/O Late Badri Singh Resident of Village Singhalia, P.S. Motipur, Distt. Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Reserve Bank Of India, Gandhi Maidan, Patna Through Assistant Manager
3. National Agriculture Bank For Rural Development (Nabard), Maurya Lok , Patna Through Deputy General Manager
4. Secretary, Finance, Service Department, Govt. Of India, New Delhi
5. Registrar. Cooperative Societies, Bihar, Patna
6. Jt. Registrar, Cooperative Societies, Muzaffarpur
7. District Audit Officer, Muzaffarpur
8. Sub Divisional Audit Officer, Muzaffarpur
9. Managing Director, Central Cooperative Bank, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : None
For the State : Mr. Sanjay Kumar, A.C. to SC-8
For the NABARD : Mr. Chjittaranjan Sinha, Sr. Adv.
Mr. Siddhartha Prasad, Adv.
Mr. Kaustubh, Adv.
For the Respondent No.9 : Mr. Rakesh Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-04-2018

Despite repeated calls, no body appears on behalf of the petitioner to press the application. Learned counsel for the State, learned counsel for the respondent no.3 and learned counsel for the respondent no.9 are present. Perused the writ petition.

2. Petitioner no.1 Motipur Adhisuchit Kshetra Paschimi Primary Agriculture Credit Cooperative Society (for short 'PACCS') is a body corporate registered under the Bihar Co-operative Societies Act and the petitioner no.2 is its Chairman. They have prayed for the



following reliefs :

(i) An appropriate writ, order or direction quashing the letter dt. 9.7.2010 and dated 29.7.2010 of the respondents 7 & 9 respectively as contained in Annexure-10 and 11 as well as the decision of the respondents 2 & 3 contained in the letters dated 19.7.2011 and 5.9.2011 as contained in Annexure-12 and 13, be issued.

(ii) An appropriate writ, order or direction commanding the respondents to consider the petitioners' claim dated 23.6.2008 as contained in Annexure-5 within a time frame, be issued.

3. In the writ petition it is stated that one of the objects of the PACCS is to advance short term and mid term loan to its members. In order to achieve its object, the PACCS had advanced loan to its members but some of the members could not repay the same due to natural calamities and the loan so advanced became overdue. In the year 2008, the Government of India issued Agricultural Debt Waiver and Debt Relief Scheme, 2008 which covers the loan advanced by the PACCS to its members. The respondent no.3 issued letter dated 23.05.2008 prescribing guidelines for implementation of the Scheme. The Registrar, Co-operative Societies also issued guidelines for implementation of the Scheme vide letter dated 31.10.2008, as contained in Annexure-3/1 to this petition. In the meantime, the respondent no.9 by his letter dated



17.06.2008 directed the Chairman of the PACCS to submit claims for debt waiver. The petitioner no.1 submitted its claim on 23.06.2008. The Co-operative Extension Officer, Motipur, Muzaffarpur made recommendation for the debt relief under the scheme on 27.01.2009. The respondent nos. 7 and 8 did not take any action in the matter and, therefore, the petitioner no.2 approached the respondent Joint Registrar, Co-operative Societies, who by his letter dated 16.04.2009 directed the District Audit Officer, Co-operative Societies, Muzaffarpur to take immediate action in the matter but he did not take any action and, therefore, the respondent Joint Registrar vide letter dated 29.06.2010 informed the respondent no.7 that if the claim is not forwarded to the Bank within time, he shall be solely responsible for the loss. The District Audit Officer, thereafter, directed the Sub-Divisional Audit Officer to submit enquiry report, who submitted his report dated 29.06.2010 to the effect that the loan advanced by the Society is not amenable under the aforesaid Scheme. Thereafter, the respondent no.7 instead of forwarding the matter to the Bank himself rejected the claim by letter dated 09.07.2010. The respondent no.9 also rejected the claim of the petitioner vide order dated 29.07.2010.

4. It has been contended in the writ petition that the decisions of the respondent nos. 2, 3, 7 and 9 are completely contrary to the aforestated scheme of the Government of India. The



advancement of loan by the Society to its members within its own fund is also amenable under the aforesaid scheme and the rejection of the claim is completely arbitrary.

5. Learned counsel appearing for the respondent no.9 submitted that the enquiry report submitted by the District Audit Officer, as contained in Annexure-10 to the writ petition would reveal that on 21.07.2006 the petitioner PACCS had only a balance of Rs.6466/- in its account whereas it had claimed that it had advanced loan to the tune of Rs. 12,62,500/- to its members and on this ground the auditor had raised its objection and the objection raised by the auditor has not even been explained in the writ petition. He submitted that misleading facts have been stated in the writ petition.

6. Learned counsel appearing for the respondent no.3 has drawn my attention towards the counter affidavit filed on behalf of the respondent no.3. He submitted that the list of eligible farmers prepared by the PACCS had to be submitted to the Central Co-operative Bank and the Central Co-operative Bank had to follow the procedure for debt waiver and debt relief scheme for farmers, which was brought for the benefit of marginal farmers and small farmers. In case of the petitioner no.1 also, list of eligible farmers had to be submitted to the Central Co-operative Bank. As the petitioner is affiliated to Muzaffarpur Central Co-operative Bank, list of eligible farmers had to be submitted to the said Bank. However, Muzaffarpur



Central Co-operative Bank vide its letter dated 07.06.2011 informed the respondent no.3 that the District Audit Officer, Co-operative Societies, Muzaffarpur disallowed the claim of the petitioner no.1 and enclosed the copy of the order dated 09.07.2010 in which he had stated that the disbursement made by the petitioner no.1 PACCS does not satisfy the condition stipulated by the Registrar, Co-operative Societies vide letter no. 7016 dated 31.10.2008. He submitted that the benefit of debt waiver and debt relief scheme has been closed on 30.06.2008 and 30.06.2010 respectively by the Government of India and as the scheme has already been closed by the Government of India, no fund is available for settling the claim of the petitioners.

7. Keeping in mind submissions made on behalf of the respondents specially in view of specific stand of the respondent no.3 that the Debt Waiver and Debt Relief Scheme has been closed on 30.06.2008 and 30.06.2010 respectively and the averments made by the respondent no.3 in its counter affidavit have not been controverted, no relief can be granted to the petitioner.

8. The writ petition is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18-04-2018
Transmission Date	

