

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3084 of 2015

In

Civil Writ Jurisdiction Case No. 5916 of 2007

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Kedar Sharma, Son of Late Pitambar Sharma, Resident of Mohalla-Professor Colony, Dinkar Nagar, P.S. & Distt- Begusarai, now retired from BISCO- Jute, Forbesganj (Araria) as Assistant Depot Manager.

.... Petitioner/s

Versus

1. Sunil Kumar Singh, S/o Not known, Chairman, Bihar State Co-operative Marketing Union Ltd., Biscomaun Bhawan, Patna.
2. Shatrughan Prasad Chaudhary, S/o not known, Managing Director, Bihar State Co-operative Marketing Union Ltd., Biscomaun Bhawan, Patna.
3. Sanjiv Lochan Mishra, S/o Late Surendra Nath Mishra, Chief of Accounts, Bihar State Co-operative Marketing Union Ltd., Biscomaun Bhawan, Patna.

.... Respondent/s

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with

Miscellaneous Jurisdiction Case No.3112 of 2016

IN

Civil Writ Jurisdiction Case No. 5916 of 2007

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1. Ashok Kumar Sah son of Late Bijendra Prasad Sah resident of village - D.D Road, Forbesganj, P.S. - Forbesganj and District - Araria and was posted at Bisco-Jute, Biscomaun Thakurganj as purchaser.
 2. Upendra Yadav son of Late Budhan Yadav resident of village - Mahuachhapki, p.s. - Hasarpur and district - Samastipur and was posted at Bisco-Jute, Raghapur Supaul as Assistant Depot Manager.

.... Petitioner/s

Versus

1. The State of Bihar, through Mr. Anjani Kumar Sinha, the Chief Secretary, Bihar, Patna.
2. Bihar State Co-operative Marketing Union Ltd. through its Chairman, Dr. Sunil Kumar Singh.
3. Dr. Sunil Kumar Singh son of not known Chairman, Bihar State Co-operative Marketing Union Ltd., Biscomaun Bhawan, Patna.
4. Surajdeo Mehta son of not known Managing Director, Bihar State Co-operative Marketing Union Ltd., Biscomaun Patna.
5. Sanjiv Lochan Mishra son of late Surendra Nath Mishra the Chief of Accounts Bihar State Co-operative Marketing Union Ltd., Biscomaun Bhawan, Patna.

.... Respondent/s

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Appearance :

(In MJC No.3084 of 2015)

(In MJC No.3112 of 2016)



For the Petitioner/s : Mr. Mohammed Abu Haidar, Adv.
For the Opposite party/s : Mr. Y.V. Giri, Sr. Adv
(BISCOMAUN) Mr. Vikas Kumar, Adv.
For the State : Mr. Jitendra Kumar, AC to AAG 11.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

9 27-09-2018 Heard learned counsel for the petitioner and learned Senior Counsel representing the BISCOMAUN.

This Court is not willing to proceed with the contempt application for two reasons. Firstly, that there is a plea on behalf of the BISCOMAUN that they are suffering from paucity of fund and recently their accounts has also been freezed because of some default in payment of the Government Agencies. The matter is under consideration before the Hon'ble Division Bench of this Court. In this connection learned Senior Counsel has relied upon the decision of Hon'ble Division Bench of this Court in the case of **Toshniwal Bandhu vs. The State of Bihar & Ors.** reported in **1996 (1) PLJR Page 475** wherein the Hon'ble Division Bench has taken a view that where the paucity of funds is the reason for non-payment of the admitted dues, the contempt proceeding cannot proceed, secondly for the reason that the cases in which chronological order has been broken by the BISCOMAUN are only those cases in which they were required to pay to come out of the contempt proceeding and it is because of the order of the



Court dealing with the contempt proceeding.

No single instance has been placed before this Court that the BISCOMAUN has broken the chronological order on its own volition.

Learned Senior Counsel for the BISCOMAUN submits that the chronological order is placed on the website of the BISCOMAUN which may be viewed or downloaded.

In the opinion of this Court, by directing the BISCOMAUN to break the chronological order and to pay the petitioner, this Court would be only discriminating against those who are placed above the petitioner and are entitled to get the payment in terms of the judgment of the Hon'ble Division Bench ahead the payment to the petitioner.

This contempt application is thus disposed off in aforesaid terms.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

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