

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3307 of 2016

IN

Civil Writ Jurisdiction Case No. 5012 of 2013

=====

Ranjit Kumar Ghosh, son of Late Ashutosh Ghosh, resident of Bhikhna Pahari, P.S.
- Kadamkuan, District - Patna, proprietor of Bihar Ink Company, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Shri Durgesh Nandan, Secretary, State Election Commission, Bihar, Patna.
2. Shri Ashok Kumar Chauhan, Commissioner, State Election Commission, Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Kushagra Raj, Adv.

For the Respondent-SEC: Mr. Amit Shrivastava, Adv.

Mr. Sanjeev Nikesh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-09-2018

Heard Mr. Kushagra Raj, learned counsel appearing for the petitioner and Mr. Amit Shrivastava, learned counsel appearing for State Election Commission (hereinafter referred to as 'the Commission').

This contempt application arises from the judgment and order of this Court passed in CWJC No.5012 of 2013, whereby the authorities of 'Commission' were directed to consider the grievance of the petitioner as regarding non-payment of the admissible dues for the supplies so effected in the 'Commission' and for its disposal in accordance with law within three months of receipt/production of a copy of the judgment and order. The judgment and order further stipulated that if the admissible payments are not made to the



petitioner within three months of receipt/production of a copy of the order, it would accompany an interest calculated @ 10% per annum on the pending dues, payable from the date those amount became due until the date of payment.

It is a matter of record that the judgment and order of this Court was tested by the 'Commission' before the Division Bench as well as before the Supreme Court but without success as the judgment and order of this Court has been affirmed.

It is thereafter that steps were taken for payment of dues of the petitioner and the first of such steps is reflected from the letter dated 15.02.2018 of the 'Commission', whereby a sum of Rs.26,77,278/- was sanctioned for payment after statutory deductions, stated to be the dues pending for the supplies made by the petitioner. There is no dispute that this amount has reached the petitioner who now pursued this contempt application because the other part of the judgment and order which stipulated payment of interest in case the payment of admissible dues were not made within time, was yet to be carried out.

On prayer made by Mr. Shrivastava, learned counsel appearing for 'Commission' that the matter was adjourned on different dates and has been taken up today. Mr. Shrivastava in reference to the Annexure 'M' & 'N' to the second supplementary show cause filed on 09.08.2018 informs that the interest amount as



well, to the tune of Rs.4,52,724/- after statutory deduction, has been paid to the petitioner, calculated with effect from 28.04.2016 until 11.02.2018 through bankers cheque dated 02.08.2018.

The position of payment of this amount is not disputed by learned counsel for the petitioner who yet has some grievance subsisting as according to him, the judgment and order of this Court has not been implemented in letter and spirit in the matter of calculation of interest because the authorities of the 'Commission' do have calculated the interest from the date of the judgment and order but it ought to have been calculated from the date the amount became due. Though Mr. Kushagra Raj, learned counsel appearing for petitioner does passionately submits as such but the records of the proceeding contains no rejoinder as to what exactly is the date when the payments became due.

The factual discussion present in the judgment and order of this Court from which this contempt application arises simply mentions that supplies were made in connection with the 2011 Panchayat Election and bill raised but the relevant dates are not present.

In that view of the matter and since in my opinion, steps have been taken by the 'Commission' for payment of the principal amount as well as the interest amount as per their understanding of the position, while upholding the objection raised by the counsel for



the petitioner in the matter of calculation of interest, in absence of any point specific statement as to when the payments became due, I would grant liberty to the petitioner to raise the claim of interest for the said period by enclosing supportive documents and it goes without saying that any such claim raised before the appropriate authority in the ‘Commission’ would be considered and disposed of within a period of three months of receipt thereof. It again goes without saying that the claim being found in terms of the judgment and order of this Court, necessary payment be made within the same period.

With the observations aforementioned, the proceedings are dropped. The contempt application is disposed of.

(Jyoti Saran, J)

SKPathak/Anjula

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20-09-2018
Transmission Date	NA

