

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2477 of 2018

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Dharmendra Kumar, Son of Sri Ram Paras Rai, Resident of Village-Birra,
Sarai, P.S. Hajipur Sadar, District Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Co-operative Department, Government of Bihar, Patna.
3. The Registrar, Co-operative Societies, Bihar, Patna.
4. The Joint Registrar, Co-operative Societies, Patna.
5. The Bihar State Co-operative Bank Limited through its Managing Director, Bihar, Patna.
6. The Managing Director, Bihar State Co-operative Bank Limited, Bihar, Patna.
7. The Board of Directors (erstwhile) through its Chairman, Bihar State Co-operative Bank Limited, Bihar, Patna.
8. The Chief Vigilance Officer, Bihar State Co-operative Bank Limited, Bihar, Patna.
9. The National Bank for Agriculture & Rural Development (NABARD) through its Chief General Manager, Block B, Maurya Lok Complex, Dak Bungalow Road, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 2976 of 2018

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Rakesh Kumar Rai, Son of Rajmani Rai, Resident of Manihari, P.O.-
Manihari, P.S.-Bhabua, District Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Government of Bihar, Vikas Bhawan, Patna.
2. The National Bank for Agriculture & Rural Development, Maurya Lok Complex, Patna, through its Chief General Manager.
3. The Registrar, Cooperative Societies, Bihar, Vikas Bhawan, Patna.
4. The Bihar State Cooperative Bank Limited, Ashok Rajpath, Patna-800004, through its Managing Director.
5. The Chairman, Bihar Stte Cooperative bank Limited, Ashok Rajpath, patna-800004.
6. The Board of Directors, Bihar State Cooperative Bank Limited, Ashok Rajpath, Patna-800004, through the Administrator, Bihar State Cooperative Bank Limited, Ashok Rajpath, Patna.
7. The Chairman, Sasaram-Bhabhua Central Cooperative Bank Limited, Sasaram.
8. The Chairman, The Vaishali District Central Cooperative Bank Limited, Hajipur.
9. The Chairman, The Gopalganj Central Cooperative Bank Limited, Gopalganj.



10. The Chairman, Tilokhar Primary Agriculture Credit Society, Tilokhar,
District-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
Mr. Sumit Kumar Jha, Advocate
Mr. Vijay Shankar Tiwari, Advocate
Mr. Sanjeev Kumar Singh, Advocate
Mr. Uma Kant Prasad, Advocate
For the State : Mr. Raj Ballabh Prasad Yadav, AAG-11
For Co-operative Bank : Mr. S.N. Pathak, Advocate
Mr. Prashant Kumar, Advocate
For Respondent Nos. 8,9: Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-06-2018

As the issue involved in both these Public Interest Litigation are identical in nature and the relief claimed are also similar, we propose to deal with the matter and dispose of both the writ petitions by this common order. For the sake of convenience, documents and material available in the record of C.W.J.C. No. 2976 of 2018 are being referred to in this order.

Petitioners have filed these writ petitions and their grievances are that the Registrar, Cooperative Societies is not exercising the statutory jurisdiction in the matter of causing an inquiry as contemplated under Section 40 of the Bihar Cooperative Societies Act, 1935 in the matter of illegalities which have come to light in an inquiry conducted by the



Registrar himself with regard to functioning of the Bihar State Cooperative Bank Ltd.

From the material that has come on record in C.W.J.C. No. 2976 of 2018, we find that a detailed inquiry with regard to certain activities and functioning of the Bank was done at the instance of the Statutory Authority and available from Page 23 onward is the report of the inquiry so conducted. Grievance of the petitioners is that in spite of the aforesaid inquiry and the report in the matter having been submitted as far back as on 18.12.2017, no action has been taken and making a prayer for action in accordance to the statute, both these writ petitions have been filed.

On notice being issued, the Registrar, Cooperative Societies has filed the counter affidavit and in the counter affidavit filed in C.W.J.C. No. 2976 of 2018 he submits that the report in question has been received on 27.12.2017, thereafter, he has directed for a special audit and immediately after receipt of the special audit report he shall proceed in the matter as contemplated under Section 40 of the Act. The aforesaid counter affidavit has been filed on 23.02.2018 and similarly another counter affidavit is available in the connected case C.W.J.C. No. 2477 of 2018 wherein in the counter affidavit



filed on 15.03.2018 by Respondent Nos. 1 to 3 therein in Paragraph 8 it is stated that the action has been taken and thereafter a special audit has been ordered on 09.01.2018 and as the special audit report is abated, no action under Section 40 has been initiated till now. It is expected to be initiated after the special audit report is received.

Once from the material available on record, we find that there is a prima facie material available in the form of a report which is accepted by Respondent Nos. 1 to 3 and when the respondent Registrar, Cooperative Societies has ordered a special audit on 09.01.2018, there is no reason as to why the special audit could not be completed even now after a period of more than five months.

During the course of hearing, today, we are informed by the counsel representing the State Government that the audit has been completed.

If that be so, we allow both these petitions in part and dispose them of with the following directions:-

On the petitioners filing a certified copy of this order, the Registrar, Cooperative Societies, Bihar, Patna shall take note of the Inquiry Report, the Special Audit Report and pass appropriate orders with regard to proceedings in the matter



under Section 40 of the Act within a period of one month from the date of receipt of certified copy of this order. Needless to emphasize that with regard to the allegations and the findings recorded in the Inquiry Report, we have not expressed any opinion on merit and it is exclusively for the Statutory Authority to hear all concerned and proceed in accordance with law in the proceedings to be initiated under Section 40 of the Act.

With the aforesaid, both these petitions are disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	05.07.2018
Transmission Date	

