

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.239 of 2018
IN
Civil Writ Jurisdiction Case No. 3322 of 2017**

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Satya Priya Kumar Sinha, S/o Late Swatantra Bhushan, resident of village - At E-16, J.P. Housing Society, Rajeev Nagar, Road No. 24T, P.O. Keshari Nagar, District - Patna

.... Appellant/s

Versus

1. The State of Bihar through the Industrial Development Commissioner, Government of Bihar, Old Secretariat, Patna
2. Industrial Development Commissioner, Industries Department, Government of Bihar, Patna
3. The Chairman, Bureau of Public Enterprises, Government of Bihar, Patna
4. The Commissioner - Cum - Secretary, Industries Department, Government of Bihar, New Secretariat, Patna
5. The Managing Director, Bihar State Handloom & Handcrafts Corporation Ltd. Udyog Bhawan, East Gandhi Maidan, Patna
6. The Chief Accounts Officer, Bihar State Handloom & Handcrafts Corporation Ltd. Udyog Bhawan, East Gandhi Maidan, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Fahimuddin

For the Respondent/s : Mr. Yogendra Prasad Sinha, AAG-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 28-03-2018

It appears from perusal of the impugned judgment dated 18.01.2018 passed in CWJC No.3322 of 2017 by the learned Writ Court that in respect of the Bihar State Handloom and Handicrafts Corporation Limited (hereinafter referred to as 'the Corporation') a winding up application giving rise to a company petition being Company Petition No.9 of 2016 was filed in the



original jurisdiction of this Court which has been transferred to the National Company Law Tribunal, Kolkata Bench and the same is pending consideration. The petitioner is seeking a mandamus for a direction to the respondent Corporation for payment of retiral dues of the petitioner with statutory interest as well as penal interest from the date of retirement i.e. 31.12.2009.

2. Learned counsel for the writ petitioner-appellant submits that even though the company petition has been transferred to the National Company Law Tribunal, Kolkata Bench, the writ court could have exercised its extraordinary writ jurisdiction to pass an appropriate order directing the Corporation to pay the retiral dues of the petitioner.

3. In view of the admitted position that a winding up application for liquidation of the company in question has already been presented and the same is pending consideration before the National Company Law Tribunal, Kolkata Bench, in our opinion, the Writ Court has rightly refrained from issuing any direction which will have a financial implication. The National Company Law Tribunal, Kolkata Bench will be the only competent forum where either upon passing of the order of winding up or from a resolution plan for revival of the company or Corporation in question the petitioner-appellant may seek his entitlement out of the funds available to the



Corporation from the sale of assets of the Corporation pursuant to winding up or pursuant to the resources which may be available to the Corporation under a resolution plan.

4. We do not find any illegality in the impugned judgment. The Letters Patent Appeal is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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