IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3536 of 2019

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Barauni Sahkari Sheet Bhandar Limited, Barauni, through the Chairman of the Managing Committee of the Society Sri Krishnadeo Jha, Male, aged 69 year, Son of Late Ram Pratap Jha, Resident of Village-Shokhara 1,Ward No.3, Sograha, P.S. Barauni, Dist.-Begusarai, Pin-851112, at present the Chairman of the Managing Committee of the Barauni Sahkari Sheet Bhandar Limited,Begusarai.

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary,Department of Co-operative,Govt. of Bihar, Patna
2. The Registrar, Co-operative Societies,New Secretariat,Bihar,Patna
3. The District Audit Officer, Co-operative Societies,Begusarai

….. ….Respondents 1st Set.

4. Sri Balister Prasad, Sub-Divisional Audit Officer, Co-Operative Societies, Begusarai cum In-Charge Special Audit Team,Begusarai
5. Sri Jaynath Singh, Sub-Divisional Audit Officer, Co-Operative Societies, Bihar, Patna
6. Sri Kailash Choudhary, Sub-Divisional Audit Officer,Co-Operative Societies, Bihar, Patna
7. Sri Gopal Prasad Sah, Sub-Divisional Audit Officer, Co-Operative Societies, Khagaria.

… ….Respondents 2nd Set.

8. Sri Amrendra Kumar S/o Jangi Lal Sah Resident of Mirzapur, Vidyapati Nagar, Dist.-Samastipur, Ex-lessee of the Barauni Sahkari Sheet Bhandar Limited, Barauni, Begusarai.

… … Respondent 3rd Set.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr.Kaushalesh Choudhary, Advocate
For the Respondent/s	:	Mr. Uday Prasad, SC-22

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 25-06-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner, in the present case, is seeking a writ of mandamus commanding the concerned respondents for appropriate revision of the special audit report dated 22.06.2015 submitted by Sri Balister Prasad, Sub-Divisional Audit Officer, Co-operative Societies, Bihar Patna (respondent no. 4). According to the petitioner the said audit report has been prepared in contravention of Section 33A of the Bihar Co-operative Societies Act, 1935 as well as in violation of the order dated 05.08.2014 passed by the Registrar, Co-operative Societies Bihar, Patna in Dispute Case No. 71/2011.

The petitioner has also made a prayer to issue a direction to the concerned respondents to inquire about the entire facts leading to preparation of the Special Audit Report dated 22.06.2015 and to declare the Special Audit Report as null and void on the ground of violation of the Rule 33A of the Act 1935. Petitioner has further prayed for a direction to the concerned authorities for recovery of the entire dues amount from the ex-lessee Sri Amrendra Kumar (respondent no. 8) as per the earlier Audit Report dated 08.10.2012.

In course of argument, learned counsel for the petitioner submits that the Special Audit Report has been prepared by the Special Audit Team in connivance with the ex-lessee (respondent no. 8) as the report has been prepared without consulting the office bearers of the society and without verifying the relevant documents and without considering the comments made in the earlier audit report dated 08.10.2012.

In the writ application, several paragraphs from the earlier Audit Report dated 08.10.2012 have been referred and relied upon in support of the case of the petitioner.

This court is not going into those aspect of the matter sitting in it's writ jurisdiction. The court is fully conscious that the Auditor's report is not to be considered in the present circumstance when it is the case of the petitioner that the Special Audit Report has been prepared in complete contravention of and in violation of the order passed by the Registrar, Co-operative Societies. According to this court, the Registrar, Co-operative Societies would be in a better position to appreciate the contention of the petitioner as regards preparation of the Special Audit Report in violation of his order.

Section 33A of the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as the 'Act of 1935') provides for a Special Audit of a Co-operative Society dealing with the funds received from the Government or other external individuals or institution and such special audit is to be initiated by the Registrar at the request of such creditor or of his own motion with his written specific order/direction.

In the present case, it is apparent from Annexure 'P/5' that on 05.08.2014 the Registrar, Co-operative Societies took note of the fact that in the light of the order dated 24.06.2014 passed in Misc. Case No. 120/2013 a Special Audit Team has already been constituted. The Registrar, Co-operative Societies took note of the submission of the learned counsel representing the opposite party that on the basis of the earlier Audit Report the Audit of 2013 had already been conducted and now only it's Audit for the period 1999 – 2012 may be done. It was submitted before him that such Special Audit Team must consist of officers senior to those who were members of the earlier Audit team. Taking note of that submission, the Registrar, Co-operative Societies directed the District Audit Officer, Co-operative Societies, Begusarai to constitute a team of Senior Audit Officers who should be senior to the then audit team and in course of the re-audit the then Audit Team shall also make it's conclusions clear.

Learned counsel for the petitioner has submitted that subsequently when the Special Audit Team was constituted by the District Audit Officer, junior members were included in the team. It is stated that even the Registrar, Co-operative Societies had constituted a team of the Special Audit comprising members who were junior to the members of the earlier Audit Team.

So far as this court is concerned, two things are clear firstly that so far as the order passed by the Registrar, Co-operative Societies on 05.08.2014 is concerned, the same is not under challenge. What is under challenge is that the team of the Auditors has not been constituted in accordance with that order. This aspect of the matter, in the opinion of this court, is required to be looked into by the Registrar, Co-operative Societies, Bihar and in case any shortcomings is found in the matter of preparation of the

Special Audit Team, he may take corrective measures.

Petitioner is, thus, granted liberty to approach the Registrar, Co-operative Societies, Bihar with his grievance whatsoever in the matter of constitution of the Special Audit Team and in case he approaches the Registrar, Co-operative Societies, Bihar with an appropriate application, the Registrar, Co-operative Societies would look into the same to ensure that his order dated 05.08.2014 is not violated and the Special Audit Team must have been constituted in accordance with his directions in his order dated 05.08.2014. Such exercise be completed by the Registrar, Co-operative Societies within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, this Writ Application stands disposed of.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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