

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21239 of 2018

1. Jyoti Shankar Giri and Ors S/o Late Rajeshwar Giri, Resident of Village- Bhagauna, P.O.- Musharwa, P.S.- Sathi, District- West Champaran.
2. Rajesh Raut, S/o Dwarika Raut, Resident of Village and P.O.- Jagjiwan Nagar Bettiah, P.S.- Bettiah, District- West Champaran.
3. Devrijit Chakrabarti, S/o Ranjan Chakarbari, Resident of Village and P.O.- Lal Saraiya, P.S.- Majhoulia, District- West Champaran.
4. Hari Narayan Chakrabarti, S/o Shyam Sundar Chakarwari, Resident of Village and P.O.- Lal Saraiya, P.S.- Majhoulia, District- West Champaran.
5. Abhishek, S/o Hiralal Prasad, Resident at New Colony, Dakbangla Road, Ward No.37, P.S.- Bettiah Nagar Bettiah, District- West Champaran.
6. Deepak Kumar, S/o Nand Kishore Prasad, Resident at Urmila Palace, Flat No.406, Trishul Bihar Colony, P.S.- Rukanpur, District- Patna.
7. Basuki Nandan, S/o Sitaram Prasad, Resident of Village and P.O.- Matlupur, Via Piar, District- Muzaffarpur.
8. Md. Nisarul Haque, S/o Ajijul Rahman, Resident at Brahmpura Mehdi Hasan Road, Ward No.4, P.O. and P.S.- Muzaffarpur, District- Muzaffarpur.
9. Raju Kumar, S/o Vishwanath Prasad, Resident of Village and P.O.- Banuchhappar, P.S.- Mufasil Bettiah, District- West Champaran.
10. Ajay Kumar Thakur, S/o Nag Narayan Thakur, Resident of Village- Upadhya Tola, P.O.- Chuhari, P.S.- Chanpatia, District- West Champaran.
11. Pasupati Kumar, S/o Ramsevak Prasad Rai, Resident of Kishun Bagh, Ward No.3, Bettiah, District- West Champaran.
12. Ajit Kumar, S/o Sugriv Sah, Resident of Village and P.O.- Piparia, P.S.- Chautarwa, District- West Champaran.
13. Ajit Prasad, S/o Motilal Prasad, Resident of Village- Gandhi Nagar, P.O. and P.S.- Bagaha, District- West Champaran.
14. Brajesh Kumar Choudhary, S/o Late Ram Vilash Chaudhary, Resident of Village and P.O.- Mehura, P.S.- Bagaha, District- West Champaran.
15. Om Prakash Mishra, S/o Harendra Mishra, Resident of Village- Pakaria, P.O.- Majharia, Kishun, P.S.- Jagdishpur, District- West Champaran.
16. Sanjay Prasad, S/o Ramakant Prasad, Resident of Village- Danaur, P.O.- Barwa Ojha, P.S.- Sanichari, District- West Champaran.
17. Bimlesh Kumar, S/o Balkishun Sah, Resident of Village- Pandey Chappra, P.O.- Ekma, Via- Rashulpur, District- Saran.
18. Umesh Prasad, S/o Ramanand Prasad, Resident of Village and P.O.- Koshut, P.S.- Dhanarua, District- Patna.
19. Sonu Kumar, S/o Lallu Ram, Resident of Chandani Chowk, Block Road, Ward No.20, Narkatiaganj, P.S.- Sikarpur, District- West Champaran.
20. Arvind Kumar Kushwaha, S/o Anirudh Prasad Kushwaha, Resident of Village- Manjharia, P.O.- Bargajawa, P.S.- Sikarpur, District- West Champaran.



21. Laxman Prasad, S/o Bindeshwari Prasad, Resident at Naya Dharmshala Road, Ward No.16, Narkatiaganj, District- West Champaran.

... .. Petitioners

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Co-operative, New Secretariat, Bihar, Patna.
3. The Registrar, Co-operative Society, New Secretariat, Bihar, Patna.
4. The Joint Registrar, Co-operative Society, Tirhut, Muzaffarpur.
5. The National Central Co-operative Bank Limited, Bettiah through its Managing Director.
6. The Chairman, National Central Co-operative Bank Limited, Bettiah.
7. The Managing Director, Bettiah, National Central Co-operative Bank Limited, West Champaran, Bettiah

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Y.V. Giri, Senior Advocate Mr. Vikas Ratan Bharti, Advocate
For the Respondent State:	:	Mr. Raheev Shekhar, Advocate
For the Bank	:	Mr. Bindhyachal Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 22-08-2019 Following is the relief, which the petitioners are seeking : -

“i) To issue an appropriate writ/order/direction, directing the respondent no.3 to pass appropriate orders in relation to regularizing the petitioners on their respective post on which they are working.

ii) To issue an appropriate writ/order/direction commanding the respondents to regularize the petitioners on their respective appropriate post and further respondents be directed to grant the petitioners all the consequential benefits and due arrears on account of the regularization of the petitioners.

iii) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of



the case.”

Learned Senior Counsel appearing on behalf of the petitioners has drawn my attention to an order, dated 02.08.2019, passed in C.W.J.C. No. 21232 of 2018 (*Pradeep Dwivedi and Another Vs. The State of Bihar and Others*), whereby in similar circumstance this Court has passed following order : -

“In this case, a short issue has been raised with regard to regularization of services of these petitioners, who have been working in the Co-operative Bank since 2005 but, their services has not been regularized.

Learned counsel for the petitioners has pointed out that a letter was addressed to the Managing Director by the Deputy Registrar, Central Co-operative Bank, Bettiah, stating therein that in terms of provision of Section 44AV of the Bihar Co-operative Societies Act, 1935, the Management of the Bank is competent to take decision in the matter of regularization of service of these petitioners.

Learned counsel for the petitioners has also drawn the attention of this Court to the proceedings of the Managing Committee, wherein it has been decided that the regularization of these petitioners would be considered after receipt of proper instructions from the Department.

In such view of the matter, let the Managing Director, Central Co-operative Bank Limited, Bettiah (West Champaran) consider the case of the petitioners for regularization in terms of the guidelines issued from time to time and under Section 44AV of the Bihar Co-operative Societies Act, 1935, within a period a period of three months from the date of receipt/production of a copy of this order.



It is made clear that this Court is not giving any opinion on the merit of the case.

With the aforesaid observations and directions, this writ petition is disposed of.”

It is being submitted on behalf of the petitioners that their application may also be disposed of in terms of the said order, dated 02.08.2019.

A preliminary objection has been raised on behalf of the National Central Co-Operative Bank Limited, Bettiah (West Champaran) over maintainability of the writ application and it has been contended that in the light of Special Bench decision of this Court in case of ***Organizer, Dehri C.D. & C.M. Union Limited Vs. State of Bihar***, reported in 2014(1) PLJR 695, the Central Co-operative Bank cannot be termed as ‘State’ within the meaning of Article 12 of the Constitution of India and, therefore, a writ will not lie against the said Bank. He has drawn my attention to an order of this Court, dated 16.02.2017 passed in C.W.J.C. No. 3546 of 2008 (***Sushila Devi Vs. Sasaram Bhabhua Central Co-operative Bank Limited and Another***), whereby in case of Sasaram Bhabhua Central Co-operative Bank Limited, Sasaram, the writ petition has been held to be not maintainable in the light of Special Bench decision in case of ***Organizer, Dehri C.D. & C.M. Union Limited*** (supra). Reliance



has also been placed on another order of this Court dated 03.03.2016 passed in C.W.J.C. No. 13102 of 2015 (*Shila Kumari @ Shila Rai vs. The Managing Director, Motihari Central Co-Operative Bank Limited and Another*), whereby writ application against Motihari Co-operative Bank Limited has been held to be not maintainable.

In response to the stand taken on behalf of the respondent Bank, learned Senior Counsel appearing on behalf of the petitioners has referred to a Division Bench decision of this Court, dated 08.05.2019, passed in L.P.A. No. 1024 of 2018 (*Rabindra Nath Mishra Vs. The State of Bihar and Others*) to submit that a Central Co-operative Bank discharges banking functions and are regulated by statute and, therefore, such Banks have been held to be 'State' within the meaning of Article 12 of the Constitution of India.

After having carefully perused the Division Bench decision in case of *Rabindra Nath Mishra* (supra), I find no other option, but to accept the contention of learned Senior Counsel appearing on behalf of the petitioners that a Central Co-operative Bank is 'State' within the meaning of Article 12 of the Constitution of India. This is to be noted that the Division Bench, in case of *Rabindra Nath Mishra* (supra), has noted the



Special Bench decision in case of ***Organizer, Dehri C.D. & C.M. Union Limited*** (supra) and, after considering Section 66B of the Bihar Co-Operative Societies Act, 1935 and Rule 33 of the Bihar Co-operative Societies Rules, 1959, has held in paragraph 22 as follows :

“22. Applying the aforesaid principles, we find no difficulty in holding that the Central Co-operative Bank, Aurangabad is a “State” within the meaning of Article 12 of the Constitution of India as it is discharging the banking functions which are regulated by statute such as Banking Regulation Act and is functioning under a license granted by the Reserve Bank of India. Apart from these, we have noticed Section 66B and Rule 33 of the Rules which are sufficient to indicate the nature of control of the State Government. The Managing Director of the Bank is an appointee of the State Government whose disciplinary authority is also the State Government. The Managing Director is the Chief Executive of the Bank.”

The Division Bench has, thus, ruled, in paragraph 24 in case of ***Rabindra Nath Mishra*** (supra), that a Bank is amenable to the jurisdiction of the High Court under Article 226 of the Constitution of India.

In view of the conclusive opinion of the Division Bench in case of ***Rabindra Nath Mishra*** (supra), as noted above, preliminary objection, raised on behalf of the respondent Bank, is hereby overruled. It is accordingly held that this writ



application filed seeking direction to National Central Co-operative Bank Limited, Bettiah, West Champaran, is maintainable.

In view of the submission made on behalf of the petitioners, this application is disposed of in terms of above mentioned order of this Court, dated 02.08.2019, passed in C.W.J.C. No. 21232 of 2018 (*Pradeep Dwivedi and Another Vs. The State of Bihar and Others*), and accordingly the Managing Director, National Central Co-operative Bank Limited, Bettiah, West Champaran, is directed to consider the case of the petitioners for regularization in terms of the guidelines issued from time to time and under Section 44AV of the Bihar Co-operative Societies Act, 1935 within a period of three months from the date of receipt/production of a copy of this order.

Before I part with the present order, I must indicate that no observation made in the present order shall be treated to be any expression on the merits of the petitioners' claim for their regularization.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--

