

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14308 of 2014

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Rajeshwar Prasad son of Late Surendra Prasad resident of Mohalla - Sri Krishna Nagar Ahari, P.O. and Police Station - Aurangabad, District - Aurangabad

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Department of Co - Operative, Government of Bihar, New Secretariat, Patna
3. The Registrar, Co - operative Society, Bihar, Patna
4. The Managing Director, District Central Co - Operative Bank, Aurangabad
5. The Board of Directors, District Central Co - operative Bank, Aurangabad

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Madan Jeet Kumar
For the Respondent/s : Mr. Aditya Nath Jha, AC to SC 18

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 03-09-2019 Petitioner has approached this Court seeking a direction upon respondents for granting him promotion as Branch Manager. The petitioner is working as Assistant Incharge Branch Manager in the District Central Cooperative Bank, Aurangabad.

This Court made specific query from Counsel for the petitioner whether being a member of the cooperative society the petitioner can invoke the jurisdiction of this Court under Article 226 of Constitution of India for issuance of a direction in respect of his promotional claim. Petitioner's counsel has relied upon a decision in the case of Ravindra Nath Mishra Vs. State



of Bihar in CWJC No. 19099 of 2012, where this Court disposed of petitioner's application with a direction to the Board of Directors of Central Cooperative Bank to consider petitioner's claim for promotion. The order relied upon by the petitioner is dated 16.1.2014.

A special Bench comprising of five judges of this Court on 7.2.2014, i.e. subsequent to the order passed in CWJC No. 19099 of 2012 relied upon by the petitioner, has already decided that writ petition against a cooperative society would not be maintainable unless the composition, funding and nature of functions performed by the Society are such that it can be termed to be "State" within the meaning of Article 12 of the Constitution of India. There is no such pleading in the instant case, on basis of which the respondent Cooperative Society can be considered to be coming within the expression "State" within the meaning of Article 12 of the Constitution of India.

In view of the subsequent special Bench decision dated 07.02.2014 of this Court in the case of The Organizer Dehri C.D. & C.M. Union Limited vs. State of Bihar reported in 2014(1) PLJR 695, this Court would observe that petitioner's claim cannot be agitated in a writ proceeding under Article 226.

Without expressing any opinion on merits of the



petitioner's prayer, the writ petition is dismissed as being not maintainable. Petitioner would be at liberty to avail his remedies in accordance with law.

(Madhuresh Prasad, J)

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