

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 3736 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 19115 of 2015

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Urmila Devi, Wife of Late Kamlesh Paswan At- Bari Budalpura, P.O.-
Khagual, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Mr. Anjani Kumar Singh, the Chief Secretary, Old Secretariat, Patna Bihar.
2. Mr. Amrit Lal Meena, the Principal Secretary, Building Construction Department, Patna, Bihar.
3. Bihar State Construction Corporation Ltd. through Mr. Anjani Kumar Singh.
4. Mr. Anjani Kumar Singh, the Managing Director Bihar State Construction Corporation Ltd, Khawaja Imali Anisabad, Patna, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Jha, Advocate
For the State	:	Mr. Dinesh Maharaj, AC to AAG 11
For the Opposite Party No. 4	:	Mr. Harshvardhan Shivsundaram, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 23-07-2019

Heard learned counsel for the petitioner; learned AC to AAG 11 for the State and learned counsel for the Bihar State Construction Corporation Limited (hereinafter referred to as the 'Corporation').

2. The petitioner has moved the Court for payment of the retiral/terminal dues of her late husband.

3. The undisputed position is that the Corporation was operating in the States of Bihar and Jharkhand but from the year



1992, it has almost become defunct as no activity is being performed and the employees were also not being paid their dues, muchless terminal/retiral dues. The matter, thus, moved before various authorities/forums/courts, including the High Court, learned Company Judge, as he then was, as well as the Hon'ble Supreme Court. Today, the position is that for liquidation, the Corporation itself has moved before the National Company Law Tribunal, Kolkata Bench in Company Petition No. 720 of 2017. In the said application under Section 10 of the Insolvency and Bankruptcy Code, 2016 process has already been initiated and publication also made.

4. In the aforesaid background, though there may be a claim of the petitioner on the Corporation but as the Court has been informed by learned counsel for the Corporation and not controverted by learned counsel for the petitioner that his Union has appeared in the case before the National Company Law Tribunal, Kolkata Bench on 17th August, 2018, taking an overall view, any interference by this Court, at this juncture, may be unwarranted.

5. At this stage, learned counsel for the petitioner indicated that the State Government itself has taken a resolution contained in Memo No. 132 dated 20.06.2018 in the



Department of Finance, with regard to rehabilitation package of the employees of various Boards and Corporations, including the present Corporation. It was their stand that the State be called upon to discharge such obligation based on which the Hon'ble Supreme Court had disposed off Special Leave to Appeal (C) No (s). 16159 of 2017 which was filed by all Bihar Union of such employees. Copy of the order was shown to the Court which reads as under:

“ In view of the action that has been taken by the State Government with respect to the employees of the various Corporations, nothing further is required to be done in the petition.

The special leave petitions are disposed of accordingly.

Pending application, if any, is also disposed of.”

6. Learned counsel for the Corporation submitted that in the resolution dated 20.06.2018, it has been specifically stated that with regard to inter-state Corporations such exercise shall be kept pending till there is final bifurcation between the two States. It was submitted that no such final bifurcation has taken place and, thus, the present Corporation is not covered under such resolution of the State Government.

7. Learned counsel for the petitioner submitted that there is no employee of the Corporation working in the State of



Jharkhand and for all practical purposes, the Corporation is now limited only to the State of Bihar and therefore the liability of the State to implement the aforesaid resolution in the case of the present Corporation cannot be shirked.

8. Learned counsel for the State and Corporation submitted that in view of materials brought on record it is apparent that there are more employees who were in the State of Jharkhand than in the State of Bihar and even if it is assumed that now such persons have come to Patna, which is the headquarters of the Corporation, it would not mean that the establishment at Jharkhand stands wound up as, in law, they are still the employees posted at various places which now falls in the State of Jharkhand.

9. Be that as it may, after considering all aspects, as the Court has indicated above, any interference in the present matter, at this stage, by this Court is not proper primarily for the reason that the matter is now subjudice before the National Company Law Tribunal, Kolkata Bench which has proceeded also in the cause. Thus, the law itself providing that all claims, including that of the employees, which shall be the first charge on the Corporation, has to be adjudicated by the National Company Law Tribunal, Kolkata Bench.



10. In view thereof, the writ petition stands disposed off with liberty to the petitioner, either to intervene in the said proceeding or wait for the outcome and then take appropriate steps, in accordance with law, before the appropriate forum.

(Ahsanuddin Amanullah, J.)

P. Kumar

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