IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8188 of 2018

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Sudhir Kumar Son of Hare Ram Singh, Resident of Mohalla-109, Naily Niwas, Lakhibagh, Road No.2, Dalmia Compound, P.S.-Mufassil, District-Gaya. .. ... Petitioner/s

Versus

1. Oriental Bank Of Commerce Through Its Chief Monitoring Duster and Ors
2. Branch Manager Oriental Bank of Commerce, A.P. Colony Branch, Gaya.
3. Field Officer, Priental Oriental Bank of Commerce, A.P. Colony Branch, Gaya.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar, Advocate
		Mr. Priya Ranjan, Advocate
For the Respondent/s	:	Mr.Nishi Nath Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 15-01-2019 Heard learned counsel for the petitioner and learned counsel representing Oriental Bank of Commerce.

This writ application has been preferred for quashing the order dated 09.04.2018 issued by the Cluster Monitoring Chief, Oriental Bank of Commerce, Patna (respondent no. 2) by which the Bank Guarantees allegedly issued in favour of the petitioner have been held as forged and the entire facility granted by the Bank in favour of the petitioner has been cancelled. A consequential order dated 16.04.2018 has already been issued by the Bank saying that no loan facility can be granted and operation of all the Accounts including the Saving, Current and other FDR have been stayed with immediate effect.

Learned counsel for the petitioner submits that the Bank Guarantees were issued by the Branch Manager of Gaya

Branch by following the established procedure. However, at this stage, the allegations are that the petitioner had got issued several Bank Guarantees in collusion and conspiracy with the Branch Manager, Gaya. It is submitted that even though the matter is under investigation with the Economic Offence Unit, Government of Bihar, Patna, this Court may consider the request of the petitioner to direct the Bank to take into account all such Bank Guarantees which have been allegedly issued by following the norms and procedures established on this behalf. Learned counsel submits that the petitioner has got a credit balance of about Rs. 1 crore and 90 lakhs in different accounts and total value of the Bank Guarantees in question shall be not more than rupees 1 lakh 12 thousand approximately. According to the petitioner, recently Rs. 40 lakhs have been adjusted by the Bank.

On the other hand, learned counsel representing the Bank has opposed the prayer of the petitioner on the grounds inter alia that the petitioner has indulged in cheating the Bank by taking into collusion the then Branch Manager, Gaya who issued several Bank Guarantees in favour of the petitioner without following the norms and procedures. Learned counsel referred the statements made in counter affidavit in this respect.

It is submitted that the matter is under investigation with the Economic Offence Unit. It is further stated that the petitioner has got a total credit balance of Rs. 1,92,89,078.37 in his 37 Accounts whereas the total outstanding balance against the petitioner is Rs. 34,26,127.55/-.

Learned counsel for the Bank has emphasized saying that the petitioner should come out on affidavit stating the total number of Bank Guarantees which he has availed with the help of the then Branch Manager, Gaya. It is submitted that such information would not only facilitate the Bank and the investigating agency in concluding the investigation but would also pave way towards the settlement of Accounts after due adjustments.

Learned counsel submits that after examining the materials if the Bank would find that the credit balance in the petitioner’s Account is more than what are actually required to be adjusted, the Bank shall do so within a reasonable time.

Having heard learned counsel for the parties and on perusal of the records, this Court is of the considered opinion that the prayer made on behalf of the Bank is reasonable. The petitioner should furnish the details of the Bank Guarantees which he has availed so far from the Branch Manager, Gaya. Such details shall be furnished within a period of two weeks from today duly supported by an affidavit by the petitioner. On receipt of the such affidavit with the details of the Bank Guarantees, the competent authority of the Bank shall look into the same along with all other materials which may have come up during the course of investigation and shall take a decision as to whether in the given facts and circumstance the amount which the petitioners are liable to pay to the Bank may be adjusted out of the total credit balance available in the different Accounts of the petitioner. If it is found that the petitioner is having excess credit balance and after all kinds of adjustments which may be legally done, the petitioner is entitled to get refund of the excess amount lying in his Account, the same shall be done within a period of three months from today.

It is made clear that any exercise carried out by the Bank by virtue of this order shall have no effect on the on-going investigation of the case and no part of this order shall prejudice the criminal case which is to be dealt separately on the basis of materials whatever come in course of investigation and in accordance with law.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

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