# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.7997 of 2008**

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1. Bhagalpur Co-Operative Spinning Mill Kamgar Union, Registration No. 3023, Aliganj, Bhagalpur-812005 through it General Secretary, Sunaina Devi.
2. Sunaina Devi, General Secretary, Bhagalpur Co-Operative Spinning Mill Kamgar Union, Bhagalpur resident of Bari Hasangaj, P.O. Mirjanhat, P.S. – Mojahidpur, Bhagalpur.

... ... Petitioners

Versus

1. State of Bihar through Chief Secretary, Govt of Bihar, Old Secretariat, Patna.
2. Industrial Development Commissioned Cum Administrator, Bhagalpur Co-Operative Spinning Mills, Bihar, Patna.
3. Director Handloom and Sericulture, Directorate Industries Department, New Secretariat, Patna.
4. Dy. Director of Industries (Cloth) Handloom and Sericulture, Directorate, New Secretariat, Patna.
5. Technical Officer (Cloth) Handloom and Sericulture, Directorate Bihar, New Secretariate, Patna.
6. Managing Director Bhagalpur Cooperative Spinning Mills Ltd Khadi Gramdyog Bhawan East Gandhi Maidan, Patna.
7. General Manager, Bhagalpur Co-operative Spinning Mill Aliganj, Bhagalpur.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Sourendra Pandey, Advocate<br>Mr. Nalin Vilochan Tiwary, Advocate |
| For the Respondent/s | : | Mr. Anjani Kumar, AAG-4<br>Mr. Sanjay Kumar, AC to AAG-4 |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL ORDER

37 08-01-2019 The writ petitioners are the registered union namely Bhagalpur Co-Operative Spinning Mill Kamgar Union and its General Secretary. They moved this Court in its writ jurisdiction for the following reliefs :-

> "i. To revive Bhagalpur Co-operative Spinning Mills ltd as this spinning mill is the industry of State of Bihar in Co-

operative Sector as the Govt of Bihar has been pursuing to set industries and to revive old industry,

ii. To pay the salary of its employee as they have not been paid salary for more than seven years in consequence there of some employees and their family member are starving or dying and as such employees may be adjusted in the other organizations of the state of Bihar.

iii. If the Govt of Bihar finds difficulties in reviving the Bhagalpur Co-operative Spinning Mills Ltd the same may bound up as per the provision of law, salaries and retiral dues to the employees or dependent of employees"

During pendency of the writ application this Court was given to understand that a winding up proceeding has been initiated for liquidation of the Company/Society of which the Mill in question is an unit but despite several queries raised by this Court, the case number of the winding up proceeding and other related informations could not be made available. This Court while passing the order dated 27.03.2018 directed the respondent State to explain the exact date on which the liquidation petition was filed and it's present status.

At this stage when the matter has been taken up for consideration, the Department of Industries through its Deputy Director (Technical) has filed a fourth supplementary counter affidavit. The crux of the supplementary affidavit is that now the Govt. of Bihar has taken certain policy decision whereunder the grievance of the employees including the retired employees of the public sector undertakings have been taken care off.

In this connection, a statement has been made in Paragraph-8 of the supplementary counter affidavit saying that the Finance Department has taken a decision under Memorandum No. 132 dated 20.06.2018 on humanitarian ground whereunder the arrears of salary of the employees of such public sector undertakings would be paid as per the criteria laid down therein i.e. (a) upon verification of credentials of employees, (b) upon demand of fund from the Finance Department, (c) payment by the department as per the Financial Rules after due verification of records and (d) payment of Employees Provident Fund Contribution in case the same was not deposited etc. A copy of Memo No. 132 dated 20.06.2018 has been brought on record as Annexure R/2. It is a categorical stand of the department that the decision to go for liquidation of the Mill in question as explained in the earlier counter affidavit has been withdrawn and in this regard relying upon the Finance

Department Memorandum No. 52 dated 14.03.2018 the Industry Department has vide Letter No. 5344 dated 28.11.2018 issued necessary instructions to the Managing Director of the Mill in question along with other two Mills to go for withdrawal of liquidation proceeding.

This Court finds that in the entire affidavit once again though impression has been given about pendency of liquidation petition but neither the date of filing of liquidation petition nor the case number and status thereof has been disclosed. Even though these facts have not been disclosed but now in view of the policy decision brought on record, in the opinion of this Court such informations have become irrelevant and the case is not required to be kept pending for the same.

The Deputy Director (Technical) who is present in the Court has, while satisfying the query raised by this Court, made a categorical statement that the Department has already taken steps by requesting the Finance Department vide Letter No. 5822 dated 18.12.2018 to allot sufficient fund to meet the outstanding liabilities of the Mill on account of arrears of salary etc. not only to the working employees but also to the retired and the deceased employees. It is submitted that a sum of Rs. 04,23,63,431/- has been demanded for this Mill besides the demand for other corporations also. This amount includes the arrears of salary of the retired and deceased employees both.

In Memo No. 52 dated 14.03.2018 which is in fact a resolution of the State Government, in Paragraph-4 it has been specifically incorporated that the employers contribution to the provident fund account of the retired and deceased employee shall be deposited in lump sum by the Administrative Department. The Director (Technical) is very categorical in saying that now in view of the policy decision and the requisition already made to the Finance Department the retired employees as well as the present employees in service are likely to get their arrears of salary and their retiral dues within a reasonable time. It is, however, submitted that payments may start only after the funds are received from the Finance Department.

In the given facts and circumstance, Mr. Sourendra Pandey, learned counsel representing the petitioners submits that now the Finance Department be sensitized to take immediate steps towards allotment of funds as required by the Department of Industry because the very policy decision of the Government is based on humanitarian ground. This Court while disposing of the writ application would, therefore, direct that the Finance

Department, Govt. of Bihar would keep in mind the first paragraph of the resolution dated 14.03.2018 (Annexure R/4) wherein it refers the various judgments of the Hon'ble Court and Article 21 of the Constitution of India with an intention to grant reliefs to the employees of the corporation. The Finance Department shall disburse the funds in terms of the policy decision of the Government and as per the requisition of the Industries Department within a period of three months from the date of receipt/production of a copy of this order. The Administrative Department shall also fulfill it's obligation in terms of Clause 4 of the Policy decision within the same period.

As soon as the funds are received, the Department of Industries shall disburse the dues/outstanding of the retired, the deceased employee as well as the present employees within a period of 30 days thereafter.

This writ application is disposed off with the aforesaid directions and observations.

**(Rajeev Ranjan Prasad, J)**

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