

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.539 of 2017

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1. Santosh Kumar Choudhary, S/o Satyanarayan Choudhary, Village - Mandroja, Lal Khan Dargah Chowk, P.O. - Bhagalpur City, P.S. - Tatarpur, District - Bhagalpur.
 2. Bihari Prasad Shah, S/o Kishun Prasad Shah, Mohalla - Aliganj, P.O. - Mirjanhat, P.S. - Mojahidpur, District - Bhagalpur.
 3. Kishori Mohan Manjhi, S/o Shital Chandra Manjhi, Mohalla - Urdu Bazar, Rakab Ganj, District - Bhagalpur.
 4. Gaurav Kumar, S/o Shri Prabhu Dayal Singh, Mohalla - Deep Nagar, Kali Thakur Lane, P.O. - Adampur, District - Bhagalpur.
 5. Rupesh Kumar, S/o Sudhir Prasad Mandal, Village - Bariyarpur, P.O. - Bariyarpur, District - Munger.
 6. Niraj Kumar Singh, S/o Yogendra Prasad Singh, Village - Gokul Mathura, P.O. - Rifatpur, P.S. - Ishipur, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-Operative Department, Government of Bihar, New Secretariat, District - Patna.
2. The Registrar, Co-Operative Societies, Bihar, Co-Operative Department, Government of Bihar, New Secretariat, District - Patna.
3. The Bhagalpur Central Co-Operative Bank Ltd., Bhagalpur, Jageshwar Mandal Bhawan, Red Cross Road, Adampur, District - Bhagalpur.
4. The Bihar State Co-Operative Bank Ltd., Ashok Raj Path, Patna-04.
5. Board of Directors, the Bhagalpur Central Co-Operative Bank Ltd., Bhagalpur, Jageshwar Mandal Bhawan, Red Cross Road, Adampur, District - Bhagalpur.
6. The Managing Director, The Bhagalpur Central Co-Operative Bank Ltd. Bhagalpur, Jageshwar Mandal Bhawan, Red Cross Road, Adampur, District - Bhagalpur.
7. The District Co-Operative Officer, District - Bhagalpur.
8. The Branch Manager Sultanganj Branch of the Bhagalpur Central Co-Operative Bank Ltd, Distt - Bhagalpur.
9. The Branch Manager Head Office, Bhagalpur, The Bhagalpur Central Co-Operative Bank Ltd, Distt-Bhagalpur.
10. The Branch Manager, Bhagalpur Branch of the Bhagalpur Central Co-Operative Bank Ltd, Distt - Bhagalpur.
11. The Branch Manager, Shahkunda Branch of the Bhagalpur Central Co-Operative Bank Ltd, Distt- Bhagalpur.
12. The Branch Manager Pirpanti Branch of the Bhagalpur Central Co-Operative Bank Ltd, Distt. - Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Avanindra Kumar Jha, Adv Mr. Ranjan Kumar Jha, Adv
For the State	:	Mr. Subodh Kumar Ac to SC-26
For the Respondent Nos. 3 and 6	:	Mr. Rakesh Kumar Jha, Adv



CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 07-01-2019

The petitioners are primarily aggrieved by the letter dated 04.07.2016 contained in Memo No. 4839 of 2016 issued by the Registrar, Co-operative Societies, Patna addressed to the Managing Director, Bihar State Co-operative Bank Limited, Patna intimating that by virtue of the judgment delivered by the Supreme Court in the case of Secretary, State of Karnataka & Ors versus Umadevi & Others (2006) 4 SCC 1, the Co-operative Bank ought not to proceed further for regularizing the services of contractual employees/daily wagers.

2. The learned counsel for the petitioners has submitted that admittedly they have been working in the Bank as Daily Wagers for the last twenty years. As per the guidelines received from the National Bank for Agriculture and Rural Development (NABARD in short) dated 25th of January, 2010 with respect to the Human Resources Policy, the service rules of Bhagalpur Central Co-operative Bank Limited has been modified and service regulation of



2012 has been enacted which is in force till date.

3. It has also been submitted on behalf of the petitioners that for formulating the aforesaid regulation of 2012, about which reference has been made above, all necessary sanctions of the State Government under the provisions of Section 18 of the Bihar Co-operative Societies Act, 2008 has been obtained and then only such rules have been brought into existence. It would be relevant to refer to Clause-4 of the aforesaid regulation which reads as hereunder.

"4. Absorption of employee working in the Bank on Contract and Daily wages.

Employee who has been working in the Bank from different organisation on Contract basis & Also Daily wages employees working in the Bank, when the given an opportunities to be absorbed against the vacant post. BOD will constitute a Screening Committee which will examine their eligibility for absorption with Bank Services against the post on the working.

4. Pursuant to the aforesaid Clause-4, the process of absorption of the daily wages employees of the Bhagalpur Central Co-operative Bank was initiated. The process reached the stage of Interview, after a decision



was taken by the Screening Committee with respect to the petitioners and others who had been working in the Bank for approximately two decades. However, for maintaining fairness in the Interview, the bank in question decided to include one member of the Interview Committee as a nominee of the Registrar of the Co-operative Societies, Bihar.

5. This decision was taken keeping in mind that the Registrar of the Co-operative Societies exercises supervisory control/authority over all the Co-operative Societies.

6. Before the Interview of the candidates could begin, the Registrar, Cooperative Societies issued the letter dated 04.07.2016 (impugned in the present petition as Annexure-15) intimating the Managing Director of the Co-operative Banks in a peremptory tenor that after the judgment delivered by the Supreme Court in the *Secretary, State of Karnataka Vs Uma Devi (supra)*, despite the regulation of 2012, the process of absorption should not be continued. Perhaps, the Registrar of the Co-



operative Societies was of the view that even if a Co-operative Bank is not a State strictly in terms of Article 12 of the Constitution as well by virtue of the judgment delivered in the special Bench of this Court in the case of *The Organizer, Dehri C.D. & C.M. Union Limited Vs. The State of Bihar & Ors 2014 (1) PLJR 695*, employment in any organization would be deemed to be a national wealth and the process of absorption would otherwise be only a manifestation of a side/back door appointment, preventing fresh applicants from obtaining employment.

7. The counter affidavit filed on behalf of the Bhagalpur Central Co-operative Bank Limited (respondent No. 3) and the Managing Director thereof (respondent No. 6) clearly indicate that the process of absorption was halted mid-way only on account of the letter dated 04.07.2016 (Annexure-15) issued by the Registrar, Co-operative Societies in his supervisory capacity.

8. The learned counsel appearing for the petitioners has submitted that once the process of absorption/ appointment had begun, it could not have



been halted mid- way but should have been completed.

9. The other argument advanced on behalf of the petitioners is that the judgment delivered in *Uma Devi (supra)* does not apply to a non-governmental organization. Additionally, it has been urged that since the regulation of 2012 about which reference has been made earlier, has been framed after obtaining necessary sanction from the State Government under the provisions of Section 18 of the Bihar Co-operative Societies Act, the Co-operative Banks shall have the liberty to control the appointment process in the Bank.

10. In this connection, learned counsel for the petitioners has shown to this Court an order of the another Registrar of the Co-operative Societies who has conceded to the fact that for the purposes of appointment, the Board of Directors of the concerned Co-operative Bank shall have full authority/independence to deal with such issues.

11. Considering the aforesaid facts as also taking into account the stand of the Bhagalpur Central Co-



operative Bank (respondent Nos. 3 & 6), this Court considers that the letter as contained in Memo No. 4839 dated 04.07.2016 (Annexure-15) passed by the Registrar, Co-operative Societies, Bihar was unwarranted in the facts and circumstances of the case. Once the process had begun, it would only be fair and equitable that the process is allowed to be completed.

12. The statement of the petitioners that they had been working in the Bank to the satisfaction of the Management for the last several years has not been doubted by the respondent Bank.

13. In that view of the matter, if the Bank in question has halted the process of absorption/appointment only by virtue of the letter contained in Memo No. 4839 dated 04.07.2016 (Annexure-15) issued by the Registrar, Co-operative Societies, Bihar, this Court deems it expedient to set aside and hold the aforesaid order as unsustainable and further direct that it shall not be given effect to.

14. It will be open for the Bank to take a



decision in this regard and preferably complete the process which has begun within a reasonable period of time with regard to absorption of the petitioners.

15. With the aforesaid directions, the writ petition is disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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