

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2480 of 2019

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Bijendra Kumar Panday, age about 63 years, Gender-Male, Son of Late Badri Narayan Pandey, Resident of Village-Sahora, P.S. Gaurichak, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar State Co-Operative Marketing Union Limited through its Chairman Biscomaun Bhawan, Patna.
2. The Managing Director, Bihar State Co-Operative Marketing Union Limited Biscomaun Bhawan, Patna.
3. The Chief Account-cum-Financial Controller, Bihar State Co-Operative Marketing Union Limited Biscomaun Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Jha, Advocate
For the State : Mr. Vikas Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 26-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Ranjit Jha, learned counsel for the petitioner and Mr. Vikas Kumar, learned counsel for the Bihar State Co-operative Marketing Union Limited (hereinafter referred to as the 'BISCOMAUN').

3. The petitioner has moved the Court for the following reliefs:

“(I) That this writ application is being filed for issuance of an appropriate writ/writs, order or orders in nature of Mandamus for directing and commanding the concern respondents



*to make all admitted retiral dues including arrears of salary of **October 1996 to December 2011** along with admissible interest which has not been paid to the petitioner as yet, where as petitioner got VRS in 2011 vide office order dated 19.12.2011 (Annexure-1 of this petition).*

(II) This application is further for issuance of an appropriate writ/writs, order or orders in the nature of Mandamus for directing and commanding the respondents to give the petitioner all legal, consequential and financial benefits, including the arrears of salary/revised salary.”

4. Learned counsel for the petitioner submitted that despite the dues of the petitioner being admitted by BISCOMAUN, the same have still not been paid to him.

5. Learned counsel for the BISCOMAUN submitted that he has filed counter affidavit and raised two preliminary objections. It was submitted that the writ petition is not maintainable in view of the law laid down by a Special Bench of this Court in **The Organizer, Dehri C.D. & C.M. Union Ltd. vs. State of Bihar**, since reported as **2014(1) PLJR 695**, which has held that writ petition under Article 226 of the Constitution of India is not maintainable against a co-operative society managed by an elected Governing Body, and BISCOMAUN is a registered co-operative society and also has an elected governing body. Further, it was submitted that in the present case, the petitioner has suppressed important and vital facts. Learned counsel submitted that earlier also the petitioner had filed a writ petition, two MJC



petitions and also LPA with regard to the same grievance, which has not been disclosed in the present writ application and, thus, a fresh writ application for the same relief is clearly not maintainable.

6. Learned counsel for the petitioner submitted that the relief sought being admitted by BISCOMAUN, the Court can issue direction for such payment. With regard to moving the Court again for the same relief, he submitted that because BISCOMAUN is not paying, the petitioner has again moved the Court.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of learned counsel for BISCOMAUN. The law having been settled by the Special Bench in **The Organizer, Dehri C.D. & C.M. Union Ltd.** (supra), the present writ petition, clearly cannot be entertained. Furthermore, as the petitioner had earlier approached the Court in a writ petition for the same relief, on this ground also, the second writ petition for the same relief, without any liberty being given to do so earlier, is not maintainable on this account also.

8. In view thereof, the writ petition stands disposed off.



9. However, it would be open to the petitioner to move before the competent forum, in accordance with law, with regard to his present grievances.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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