

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13376 of 2010

1. Hayaghat Vikash Prakhand Matsyajivii Swablambi Sahkari Samitiu Ltd. Hazipur Biranpatti through its Chief Executive, Dharamsheela Devi W/O Banarsi Sahni, R/O Vill Hazipur Biranpatti, P.S.Ashok Paper Mill, Distt-Darbhangha
2. Tardih Prakhand Matsyajivi Swablambi Sahkari Samiti Ltd. Kaithwar through its Chairman Baidyanath Mukhiya S/O Late Badair Mukhiya, R/O Vill Kaithwar, P.S.Sakatpur, Distt-Darbhangha
3. Katra Anchal Matysjaivi Swablambi Sahkari Samiti Ltd. Pahsaul through Its Chief Executive Siya Sharan Sahni S/O Late Bahadur Sahni, R/O Vill Pahsaul, P.S.Katra, Distt-Muzaffarpur
4. Ghanshayampur Prakhand Matsyajivi Swablambi Sahkari Samiti Ltd through Its Chairman Ram Lakhan Mukhi S/O Shree Kewal Mukhiya R/O Vill Mahbasi, P.S.Ghanshayampur, Distt-Darbhangha
5. Khanpur Prakhand Matsyajivi Swablambi Sahkari Samiti Ltd. through Its Chief Executive Leela Devi W/O Ajay Kumar Sahni R/O Vill Gudarghat, P.S.Khanpur, Distt-Samastipur

... .. Petitioner/s

Versus

The State Of Bihar through the Principal Secretary, Co-operative Department, Bihar, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 15917 of 2010

1. Hanuman Nagar Block Fishermen Self Supporting Co-operative Society Ltd. Tisidih through Its Chief Executive Angehswar Sahni S/O Late Laxmi Sahni, R/O Vill Tisidih, P.S. More, Distt-Darbhangha
2. Rabindra Sahni S/O Shri Raj Kumar Sahni R/O Vill Patasara, P.S.Pear, Distt-Muzaffarpur, The Chief Executive Of Bandra Prakhand Matsyajivi Swablambi Sahkari Samiti Ltd, Patasara, Distt-Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Co-Operation Bihar, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16702 of 2010

Phulparas Block Fishermen Co-operative Society Ltd. through its Chief Executive (Mantri) Ram Sagar Mukhiya, Resident of Vilalge.- Phulparas, P.O. and P.S.- Phulparas, Distt.- Madhubani

... .. Petitioner/s

Versus



The State of Bihar through the Principal Secretary, Co-operative Department,
Bihar, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 13376 of 2010)

For the Petitioner/s : Mrs.M.Chatterjee, Advocate.
Mr. Ram Nibash Prasad, Advocate.
For the Respondent/s : Mr. P.N.Shahi, AAG -6
Md. Khurshid Alam, Advocate.

(In Civil Writ Jurisdiction Case No. 15917 of 2010)

For the Petitioner/s : Mrs.M.Chatterjee, Advocate.
For the Respondent/s : Mr. P.N.Shahi, AAG -6

(In Civil Writ Jurisdiction Case No. 16702 of 2010)

For the Petitioner/s : Mr.Dineshwar Prasad Singh, Advocate
Mr. Nityanand, Advocate
For the Respondent/s : Mr. P.N.Shahi, AAG -6

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-09-2020

On 22.09.2020, we had passed the following order:-

“On 26.08.2020, we had passed the following order:

“On the request of Shri Patanjali Rishi, Assistant Counsel to learned A.A.G. 6, matters are adjourned by two weeks clarifying that no further adjournment shall be granted.

List on 10.9.2020.”

Today, despite repeated calls, none has entered appearance on behalf of the petitioner.

Contending that the matter in issue is squarely covered, Shri Pushkar Narayan Shahi, learned senior counsel, appearing for the respondent, invites our attention to a Constitution Bench decision by Hon’ble Apex Court rendered in (1985) 2 SCC 670, titled as **Daman Singh &**



Ors. Vs. State of Punjab & Ors.

Indulgently, for the reasons that despite repeated calls, none has entered appearance on behalf of the petitioners today, we adjourn the matters.

List on 24.09.2020.”

We are informed by the Court Master that the link for hearing of these petitions was sent to all the learned counsel. We notice that in one such matter i.e. C.W.J.C. No. 15169 of 2010 titled as Bihar Rajya Matsyajeevi Sahkari Sangh Limited Vs. The State of Bihar & Ors., Shri Arvind Kumar Tewary, Advocate entered appearance and prayed for withdrawal of the writ petition on the ground of it having become infructuous. The same was disposed off accordingly. In the other three connected matters i.e. C.W.J.C. No. 13376 of 2010 titled as Hayaghat Vikash Prakhand Matsyajivi Swablambi Sahkari Samiti Ltd. & Ors. Vs. The State of Bihar, C.W.J.C. No. 15917 of 2010 titled as Hanuman Nagar Block Fishermen Self Supporting Co-operative Society Ltd. & Anr. Vs. The State of Bihar & Anr. and C.W.J.C. No. 16702 of 2010 titled as Phulparas Block Fishermen Co-operative Society Ltd. Vs. The State of Bihar & Ors. none has entered appearance.

Shri P.N. Shahi reiterates his submissions, further inviting our attention to the few more decisions rendered by the



Hon'ble Apex Court in **Daman Singh & Others vs. State of Punjab & Others; (1985) 2 SCC 670, Sumangalam COOP. Housing Society Ltd. vs. Suo Motu High Court of Gujarat & Others.; (2007) 2 SCC 301** and **Zoroastrian Cooperative Housing Society Ltd. and Another vs. District Registrar, Cooperative Societies (Urban) and Others; (2005) 5 SCC 632**, pointing out that the issue in question is no longer *res integra* as squarely settled by Hon'ble the Apex Court in these decisions.

Legislation impugned in these provisions reads as under:-

“2. Amendment of Section- 11 of the Bihar Act, 2, 1997- The following proviso shall be added after sub-section (4) of Section 11 of the said Act, 1997:-

“Provided that notwithstanding anything contrary contained in Bihar Act 2 of 1997, or in any other Act including Bihar Co-operative Societies Act, 2 of 1935 or rules framed there under or bye-laws of a Co-operative Society or class of Co-operative Societies or any order issued by the State Government or Registrar of Co-operative Societies, any Fishermen Co-operative Society at Block Level registered under Bihar Act 2 of 1997, shall with effect from the appointed day, stand reorganized as one



society and shall be deemed to be registered under Bihar Act VI of 1935.”

Accepting the statement made on behalf of the State, we close these proceedings reserving liberty to the petitioners to take recourse to such remedies as are otherwise available in accordance with law, including filing a fresh petition on the same and subsequent cause of action, if so required and desired.

Petitions stand disposed of in the aforesaid terms.

Interlocutory application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

