IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5089 of 2021

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RAJIV RANJAN SINGH, Son of Prabhunath Singh, Resident of Village- Damodarpur, Purab Tola, Near Shiv Mandir, P.O- Sarai, P.S.- Sarai, District- Vaishali at present- Gur Ki Mandi Chouraha, Sher Shah Road, P.O- Gulzarbagh, P.S.- Alamganj, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Finance Secretary, Government of Bihar, Patna.
2. The Finance Secretary, Government of India, Ministry of Finance, Rajpath Marg, E-Block, Central Secretariat, New Delhi- 110011.
3. The Corporate Head, Life Insurance Corporation of India (LIC), Corporate Office, Yogakshema Building, Jeevan Bima Marg, P.O Box No- 19953, Mumbai-400021.
4. The Chairman, Insurance Regulatory and Development Authority of India (IRDAI), Sy. No- 115/1, Financial District, Nanakramguda, Gachibowli, Hyderabad-500032.
5. The Branch Manager, Life Insurance Corporation of India (L.I.C), Divisional Office-2, Jeevan Ganga Building, 4th Floor, Frazer Road, Patna-800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Birendra Kumar, Advocate
For the Respondent/s	:	Mr.Ajay Kumar Rastogy, AAG-10

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 05-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

> "(i) To direct the Respondents to take necessary, immediate and proper steps to amend the " Jeevan Saral" policy as the policy was designed in an arbitrary manner

without proper due diligence and was sold with inaccurate, faulty and misleading proposal forms to its customers by the Life Insurance Corporation of India (L.I.C.) especially to the senior citizens who were either on the verge of retirement from their service or have retired or have attained the age of 55 years or more. Thus, the Life Insurance Corporation of India (L.I.C.) has played “intellectual jugglery” with its customers especially to the senior citizens by alluring and misguiding them while selling (better to say mis-selling) of its “Jeevan Saral” policy by introducing such a defective policy and by committing such “intellectual Jugglery” and in many cases by returning very very less amount of maturity even less than the total premium paid by the policy holder, the Life Insurance Corporation of India (L.I.C) had cheated/committed fraud to its “Jeevan Saral” policy holders especially to the senior citizens and have amassed huge amount of money of about 1 lakh crore which is a matter of proper investigation by the competent authorities. Also, by suddenly stopping the selling of its “Jeevan Saral” Plan by the L.I.C. from 01/01/2014 to comply with the IRDA Life Insurance Regulations 2013 without giving any information regarding the closure of the “Jeevan Saral” plan from 01/01/2014, the Life Insurance Corporation of India (L.I.C.) had committed breach of trust with its policy holder especially with its senor citizens and by intentionally denying those customers especially the senor citizens in giving them an opportunity either to stop that very defective “Jeevan Saral” policy from that very date i.e. on 01.01.2014 or enabling them to convert their “Jeevan Saral” policy to another suitable policy/plan of India (L.I.C.).

(ii) To direct the Respondent No.3 and the Respondent No.5 to take immediate and proper steps to refund the premiums with compound interest and to pay adequate compensation to all the "Jeevan Saral" policy holders especially to the senior citizens for the horrible mis-selling of the "Jeevan Saral" plan as due to such flawed policy of the Life Insurance Corporation of India (L.I.C.), the policy holders have got negative returns (or loss). This fact was not informed by the L.I.C.. to its prospective Customers at the time of sale.

(iii) To direct the Respondent No.3 and the Respondent No.5 to explain as to why in some cases it continued to take premium from its customers especially from the senior citizens even after 1/1/2014 without communicating to its policy holders especially the senior citizens of the fact that the Life Insurance Corporation of India (L.I.C.) had stopped selling of its "Jeevan Saral" plan from 1/1/2014 to comply with the IRDA (Insurance regulatory and Development Authority) of India Life Insurance Regulation, 2013 ?

(iv) To direct the Respondent No.4 to explain as to what were the reasons and circumstances and to provide the circular/notification issued by the Respondent No.4 following the instructions/guidelines the Life Insurance Corporation of India (L.I.C.) had stopped the selling of "Jeevan Saral" plan from 01/01/2014 to comply with IRDA Life Insurance Regulations 2013 and also why the closure of the "Jeevan Saral" plant was mandated as per the guidelines of the Respondent No.4 as replied by the Regional Office of the LIC, Patna as,.

a) To comply with IRDA Life Insurance Regulations 2013, LIC had topped the selling of "Jeevan Saral" plan from 01/01/2014,

b) The introduction/withdrawal of any plan is made under the instructions and guidance of IRDA only,

(v) To direct the Respondent No. 4 to investigate the malpractices if any committed by the respondent No.3 and the Respondent No.5 with the policy holders especially the senior citizens which its is empowered under various sections of the Insurance Acts and IRDA Acts as such mis-selling of the "Jeevan Saral" policy has caused irreparable loss to the policy holders especially the senior citizens.

(vi) To direct the Respondent No.3 and the Respondent No. 5 to disclose the total amount which they have realized as "premium" from their "Jeevan Saral" plan policy holder (including the senior citizen) in the public interest so that the public in general should know that how the Life Insurance Corporation of India by committing intellectual jugglery"/breach of trust/fraud on its policy holders have realized such heavy amount by returning their maturity amounts very very less, even less than half of the premium paid to it by the policy holders and have amassed about 1 lakh crores- which is a matter of investigation by the competent authorities and when this petitioner sent an application under Right To Information Act -2005 dated 02/12/2020 the local Patna (Bihar) branch of the Life Insurance Corporation of India (LIC) replied that the information sought cannot be given/information as It is exempted Under 8(1)(d) of the RTI Act-2005. But the aforementioned Section 8(1)(d) of the RTI Act-2005 also states that that "the competent authority is satisfied that the larger pubic interest warrants the disclosure of such information". Thus, information may be disclosed by the LIC of India in public interest."

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

The Hon'ble Supreme Court in ***D. N. Jeevaraj Vs. Chief Secretary, Government of Karnataka & Ors, (2016) 2 SCC 653***, paragraphs 34 to 38 observed as under:-

"34. The learned counsel for the parties addressed us on the question of the bona fides of Nagalaxmi Bai in filing a public interest litigation. We leave this question open and do not express any opinion on the correctness or otherwise of the decision of the High Court in this regard.

35. However, we note that generally speaking, procedural technicalities ought to take a back seat in public interest litigation. This Court held in *Rural Litigation and Entitlement Kendra* v. *State of U.P.* [*Rural Litigation and Entitlement Kendra* v. *State of*

U.P., 1989 Supp (1) SCC 504] to this effect as follows: (SCC p. 515, para 16)

> "*16*. The writ petitions before us are not inter parties disputes and have been raised by way of public interest litigation and the controversy before the court is as to whether for social safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the court."

36. A considerable amount has been said about public interest litigation in *R&M Trust* [*R&M Trust* v. *Koramangala Residents Vigilance Group*, (2005) 3 SCC 91] and it is not necessary for us to dwell any further on this except to say that in issues pertaining to good governance, the courts ought to be somewhat more liberal in entertaining public interest litigation. However, in matters that may not be of moment or a litigation essentially directed against one organisation or individual (such as the present litigation which was directed only against Sadananda Gowda and later Jeevaraj was impleaded) ought not to be entertained or should be rarely entertained. Other remedies are also available to public spirited litigants and they should be encouraged to avail of such remedies.

37. In such cases, that might not strictly fall in the category of public interest litigation and for which other remedies are available, insofar as the issuance of a writ of mandamus is concerned, this Court held in *Union of India* v. *S.B. Vohra* [*Union of India* v. *S.B. Vohra*, (2004) 2 SCC 150: 2004 SCC (L&S) 363] that: (SCC p. 160, paras 12-13)

> "*12*. Mandamus literally means a command. The essence of mandamus in England was that it was a royal command issued by the King's Bench (now Queen's Bench) directing performance of a public legal duty.
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> *13*. A writ of mandamus is issued in favour of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a

public duty or by operation of law. The writ of mandamus is of a most extensive remedial nature. The object of mandamus is to prevent disorder from a failure of justice and is required to be granted in all cases where law has established no specific remedy and whether justice despite demanded has not been granted."

38. A salutary principle or a well-recognised rule that needs to be kept in mind before issuing a writ of mandamus was stated in *Saraswati Industrial Syndicate Ltd.* v. *Union of India* [*Saraswati Industrial Syndicate Ltd.* v. *Union of India*, (1974) 2 SCC 630] in the following words: (SCC pp. 641-42, paras 24-25)

"*24*. … The powers of the High Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless, the well-recognised rule that no writ or order in the nature of a mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged breaches of mandatory duties, the salutary general rule, which is subject to certain exceptions, applied by us, as it is in England, when a writ of mandamus is asked for, could be stated as we find it set out in *Halsbury's Laws of England* (3rd Edn.), Vol. 11, p. 106:

'198. *Demand for performance must precede application*.—As a general rule the order will not be granted unless the party complained of has known what it was he was required to do, so that he had the means of considering whether or not he should comply, and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce, and that that demand was met by a refusal.'

25. In the cases before us there was no such demand or refusal. Thus, no ground whatsoever is shown here for the issue of any writ, order, or direction under Article 226 of the Constitution."

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of three months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action;

(g) We have not expressed any opinion on merits. All issues are left open;

(h) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA