

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10838 of 2021

1. Pramod Kumar, Son of Late Yogeshwar Jha, Resident of village- Bhagwanpur Goraul, P.O. and P.S.- Goraul, District- Vaishali.
2. Satyandra Prasad Singh, Son of Sri Dhaneshwar Singh, Resident of village- Ragho Majhauri, P.O. and P.S.- Bochaha, District- Muzaffarpur.
3. Mohan Singh, Son of Late Ranjeet Singh, Resident of village- Bela Chhapra, P.O.- MIC Bela, P.S.- Bela, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. Life Insurance Corporation of India through its Chairman, Head Office- 5th Floor, Westwing Yogakshema, Jeevan Bima Marg, Nariman Point, Mumbai- 400021.
2. The Managing Director, Life Insurance Corporation of India, Head Office- 5th Floor, Westwing Yogakshema, Jeevan Bima Marg, Nariman Point, Mumbai- 400021.
3. The Regional Manager, East Central Zone, Life Insurance Corporation of India, 5th Floor, Jeevan Deep, Exhibition Road, Patna-1.
4. The Senior Divisional Manager, L.I.C. Divisional Office, Jeevan Prakash, Umashankar Pd. Marg, Ramna, Muzaffarpur- 842002.
5. The Divisional Manager, L.I.C. Divisional Office, Jeevan Prakash, Umashankar Pd. Marg, Ramna, Muzaffarpur- 842002.
6. The Life Insurance Corporation of India, Micro Insurance Department, through its Executive Director (Micro Insurance), Central Office, 5th Floor, Westwing Yogakshema, Jeevan Bima Marg, Nariman Point, Mumbai- 400021.
7. The Senior Branch Manager, L.I.C. , Micro Insurance Department, Divisional Office of LIC, Jeevan Prakash, Umashankar Pd. Marg, Ramna, Muzaffarpur- 84002.
8. The Divisional Manager, L.I.C. Divisional Office, Micro Insurance Department, Jeevan Prakash, Umashankar Pd. Marg, Ramna, Muzaffarpur- 84002.
9. The Deputy Manager, Micro Bima Department, L.I.C. Divisional Office, Umashankar Pd. Marg, Ramna, Muzaffarpur- 842002.
10. The Principal Secretary, Department of Agriculture and Corporation, Govt. of India, Office of the Central Registrar of Co-operative Society, Krishi Bhawan, New Delhi.
11. The Joint Secretary to the Govt. of India and Central Registrar of Cooperative Societies, Department of Agriculture and Co-operation, Department of Agriculture and Co-operation, Office of the Central Registration of Co-operative Societies, Krishi Bhawan, New Delhi.
12. The Secretary, Department of Co-operative Societies, Govt. of Bihar, Vikash Bhawan, Patna-1.

13. The Registrar, Department of Co-operative Societies, Govt. of Bihar, Vikash Bhawan, Patna-1.
14. The Registrar of District Cooperative Societies, Govt. of Bihar, Combined Building, Muzaffarpur.
15. The Commissioner, Tirhut Division, Muzaffarpur.
16. The District Magistrate, Muzaffarpur.
17. The Director General of Police, Patel Bhawan, Bailey Road, Patna-23.
18. The Deputy Director General of Police, Patel Bhawan, Bailey Road, Patna-23.
19. The Inspector General of Police, Tirhut Division, Muzaffarpur.
20. The Senior Superintendent of Police, Muzaffarpur.
21. The Superintendent of Police, Muzaffarpur.
22. The S.H.O. of Town Police Station, Muzaffarpur Sadar, Muzaffarpur.
23. The S.H.O. of Mithanpura Police, Station, Muzaffarpur.
24. The S.H.O. Kazi Mohammadpur Police Station, Muzaffarpur.
25. The Economic Offences Unit, Bihar, through its Additional Director General of Police, Dr. Sri Krishna Singh, Path, Raj Marg, Patna-800001.
26. The Superintendent of Police, the Economic Offences Unit, Bihar, Dr. Sri Krishna Singh Path, Raj Marg, Patna-800001.
27. The Chairman of the Insurance Regulatory and Development Authority (Licensing Authority of Corporate Agents), New Delhi.
28. Swarn India Realty Projects Private Ltd. through its Registrar, C/o Ratnesh Thakur, 35, C.R. Avenue, 6th Floor, Kolkata - 700012, West Bengal.
29. Sri Anil Kumar alias Anil Kumar Chaudhary, Son of Sri Ram Briksha Chaudhary, resident of village- More Nisf, Basauli, P.s.- Maniyari, District- Muzaffarpur, at present resident of Mohalla- Kapoor Bagh, Road No. 1, Imli Chouk, Bela, P.s.- Mithanpur, District- Muzaffarpur, Pin- 842002.
30. Swarn India Financial Services through its Chairman Sri Anil Kumar alias Anil Kumar Chaudhary, Registered Office- the 1st Floor, Sahu Market, Aghoria Bazar, P.S.- Kazi Mohammadpur, District- Muzaffarpur- 842002.
31. Swarn India Multi State Co-operative Society Ltd. (Registration No. MCS/CD/660/2012) through the Chairman, Anil Kumar @ Anil Kumar Chaudhary, Son of Sri Ram Briksha Chaudhary, Registered Office, the 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002.
32. Swarn India Multi State Credit Co-operative Society Ltd. through its Chairman and Managing Director Sri Anil Kumar @ Anil Kumar Chaudhary, aged about 39 years, Male, Son of Sri Ram Briksha Chaudhary, Registered Office- 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 at present residing in Mohalla- Kapoor Bagh, Road No. 1, Imli Chouk, Bela, P.s.- Mithanpura, District- Muzaffarpur and his permanent home address is village- More Nisf within Grampanchayat- Basauli, P.s.- Maniyari, District- Muzaffarpur, Mobile No. 9334914489, Mobile No. 6202779496,

9934121212, 7004430061 and 9973247006.

33. Swarn India Food and Beverage Pvt. Ltd. (Registration No. MCS/CR/660/2012) through its Chairman and M.D. Sri Anil Kumar @ Anil Kumar Chaudhary, registered office, Turki, Sakri Saraiya, In front of Reliance Petrol Pump, P.s.- Kudhni, District- Muzaffarpur.
34. Swarn City, through its Chairman and M.D. Anil Kumar @ Anil Kumar Chaudhary, Registered Office- Kalam Bagh Road, Panjabi Colony, Gannipur, Muzaffarpur Town, P.S.- Kazi Mohammadpur, District- Muzaffarpur.
35. Swarn India Resort and Tour Pvt. Ltd. through Sri Anil Kumar @ Anil Kumar Chaudhary, the Chairman and M.D., Registered Office- 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur.
36. Mukesh Kumar Son of Ram Briksh Chaudhary posted as C.E.O. of Swarn India Multi State Credit Co-operative Society Ltd., Registered Office- 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 Mobile Nos.- 8252992484 and 8051111111.
37. Sunita Kumari Wife of Anil Kumar @ Anil Kumar Chaudhary, posted as the Member of the Board of Directors, Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002.
38. Sonu Kumar alias Sonu Kumar Chaudhary son of Ram Briksha Chaudhary posted as the Member of the Board of Directors, Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 Mobile No. 8340122078.
39. Smt. Sudama Devi Wife of Ram Briksha Chaudhary posted as the Member of the Board of Directors, Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002.
40. Minu Chaudhary Wife of Mukesh Kumar @ Mukesh Kumar Chaudhary posted as the Member of the Board of Directors, Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 Resident of Mohalla- Kapoor Bagh, Road No. 1, Imli Chouk, Bela, P.s.- Mithanpura Town, District- Muzaffarpur, whose permanent home address is village More Nisf, within Basauli Panchayat, P.s.- Maniyari, District- Muzaffarpur.
41. Sri Ravi Shankar Mishra Son of Sri Nandlal Mishra posted as the Manager, Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 At present resident of Mohalla Ram Bagh, Muzaffarpur Town, P.s.- Mithanpura, District- Muzaffarpur- 842002, Mobile Nos. 9835283606, 7371996076.
42. Sri Ritesh Ranjan Son Sri Jagarnath Singh posted as the Assistant Manager,

Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 at present resident of village- Dariyapur Kaphen, P.s.- Kudhni, District- Muzaffarpur, Pin- 844127.

43. Sajid Hussain Son of name not known to the petitioners posted as Marketing Manager of Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 At present resident of Home Village Sakri Saraiya, P.s.- Kudhni, District- Muzaffarpur, Pin- 844127.
44. Sri Prabhat Kumar Ranjan Son of Sri Dinesh Prasad posted as the Marketing and Management Officer of Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 At present resident of village Home- Mahdaiya, P.s.- Minapur, District- Muzaffarpur, Mobile No. 8709530551.
45. Sri Mukesh Kumar Son of Late Munmeshwar Chaudhary posted as Cashier of Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 At present residing in his Home village- Sakra Bajid, P.s.- Saka, District- Muzaffarpur, Mobile No. 9801941911.
46. Sri Rajesh Kumar Son of Late Harinarain Bhagat, posted as Officer Loan Department of Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002 at present residing at village- Lichi Bagan, Gobarsahi, P.s.- Bhagwanpur, District- Muzaffarpur.
47. Farhad Ansari Son of name not known to the petitioners posted as the Verification Officer of Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur- 842002, at present residing in his village Home- Kanti, P.s.- Kanti, District- Muzaffarpur.
48. Sri Ranjeet Kumar Son of name not known to the petitioner, posted as the Verification Officer of Swarn India Multi State Credit Co-operative Society Ltd., whose registered office at 1st Floor, Sahu Market, Aghoria Bazar, Muzaffarpur Town, P.s.- Kazi Mohammadpur, District- Muzaffarpur. At present residing in his village home- More Nisf, P.s.- Maniyari, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Chandra Mauli Chaurasia, Advocate
For the Respondent/s	:	Mr.Raj Dular Sah, Advocate
		Mr. V.N.P. Sinha (EOU)
		Mr. Dr. K.N. Singh, A.S.G.
		Mr. Sameer Sawarn, Advocate

Mr. Rakesh Kumar, Advocate
Mr. Rajni Kant, Advocate
Ms. Soni Shrivastava, Advocate

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

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

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

Date : 10-08-2021

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

“(i) for issuance of a writ in the nature of Mandamus commanding the respondents concerned i.e. the Respondent no. 25 and 26 to make investigation of the case against respondents nos. 29 to 48 and to arrest them in accordance with law immediately in the facts and circumstances of the case on record since the instant matter is related to misappropriation or defalcation of a huge amounts of More than 55 crores of rupees of the public money done by the

Respondents no. 29 to 48 by opening of chit funds in collusion with L.I.C. Officers (Respondents No. 1 to 9 in the supervision of the Respondents No. 10 to 14 in the facts and circumstances of the case stated below in this Writ Application.

ii) For issuance of a writ in the nature of Mandamus commanding the Respondents No. 25 and 26 to lodge the case against the Respondents No. 29 to 48 as per law and to make enquiry and investigation of the case themselves and to submit enquiry report up-to-date at their own level in this Hon’ble Court in this case and to arrest the Respondents No. 29 to 48 immediately after remanding them in jail for doing proper investigation as per law in the facts and circumstances of the case on record.

Iii) For direction to the Respondents No. 17 to 24 to assist the Respondents No. 25 and 26 in making investigation of the case with respect to the misappropriation or defalcation of a huge amounts of more than 55 crores of rupees of the public money of the general public, who are socially and economically poor section of the society by giving bluff to them in the garb of L.I.C. Policy done by the Respondents No. 30 and 31 in collusion with the Respondents L.I.C. concerned as well as the Respondents No. 29 and 32 to 48 in the facts and circumstances of the case.

iv) For direction to the respondents authorities concerned to restrain the Respondents No. 29 to 48 to sell their any immovable properties or movable, nami or benami till the conclusion of the instant case or till the final hearing of the criminal cases lodged against them or as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case on record.

v) For direction to the respondents authorities concerned restraining the Respondents no. 29 to 48 to withdraw any amount from their Accounts of the Banks concerned in any manner or mode either Nami or Benami and further to seize the sale deeds, pass books, cheque book, cash amounts etc. of the Respondents no. 29 to 48 and their respective family members whether the same are Nami or Benami cash or documents in the facts and circumstances of the case on record.

Vi) For direction to the respondents authorities concerned to collect the huge amounts from the respondents no. 29 to 48 and to make payment of the due maturity amounts to the investors and the Agents, who are investors as well and also to make payment the due amounts to the Depositors as well as the Agents, whose Accounts are not matured till date and the same was running till the close of the office of the respondents no. 30 and 31.

vii) For direction to the respondents authorities concerned by restraining the respondents no. 29 to 48 to lodge any criminal case either FIR or complaint on false, frivolous and concocted grounds against any of the Agent and the Depositors or investors with a view to take grudge from them under the S.C. & S.T. Act cases, rape cases etc. in the facts and circumstances of the case on record.

Viii) And further for grant of any other relief or reliefs for which the petitioners are entitled for in the facts, law and circumstances of the case of the investors and agents, who are investors as well on the 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 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.

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.”

After the matter was heard for some time, learned counsel for the petitioners, under instructions, state that petitioners 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 petitioners, 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.

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

(a) Petitioners 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 petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioners take 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 petitioners to approach the Court, if the need so arises subsequently on the same and subsequent cause of action;

(g) Liberty also reserved to the petitioners to make a mention for listing of the petition on priority basis. As and when any such mention is made, Registry shall take steps for listing the petition at the earliest.

(h) We have not expressed any opinion on merits.

All issues are left open;

(i) 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