IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
Civil Writ Jurisdiction Case No.348 of 2017

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1. Ashish Kumar Keshri, son of Late Ram Kumar Keshari, resident of Village + P.S.- Kochas, District- Rohtas.
2. Uttam Kumar, son of Ramesh Seth, resident of Village- Chintaw, P.O.- Indore, P.S.- Dinara, District- Rohtas.
3. Manoj Kumar Singh, son of Sri Ramdayal Singh, resident of Village- Deokhair, P.S.- Kochas, District- Rohtas.

... ... Petitioners

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Director General of Police, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Union Government of India through Secretary, Home Department, Government of India, New Delhi.
5. The Secretary, Department of Personnel and Training, Government of India, New Delhi.
6. The Director, Central Bureau of Investigation, New Delhi.
7. The Securities and Exchange Board of India, New Delhi.
8. Reserve Bank of India, through General Manager, South Gandhi Maidan, Patna-1
9. Inspector General, Economic Offence Unit, Bihar.
10. District Magistrate, Patna.
11. Bonanza Portfolio Limited, 2^{nd} Floor, Block B/202, Ashiyana Chambers, Opposite UCO Bank, Exhibition Road, Patna-800001.
12. Bonanza Portfolio Limited, New Jatan Pur, Shyam Market, Shyam Market, Budh Marg, Patna, Bhar-800001.
13. Bonanza, Ranjeet Complex, Talpetra Lane, New Ashok Cinema Hall, Budh Marg, Patna, Bihar-800001.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Sharma, Advocate
Ms. Ritika Rani, Advocate

For the Respondent/s : Mr.Prabhat Kumar Verma-AAG-3
Mr. S.D. Sanjay, Sr. Advocate
Mr. V.N.P. Sinha, Advocate
Mr. Kaushal Kumar Jha, Advocate
Ms. Soni Shrivastava, Advocate
Mr. Shivendra Kumar Sinha, Advocate

Ms. Punam Kumari Singh, C.G.C.
Mr. Bipin Kumar Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

18 17-02-2021 This writ application by way of Public Interest Litigation has been brought praying for the following directions:-

> *"I. For direction to the Director, C.B.I. to enquire into the matter after lodging FIR against Bonanza Portfolio Ltd. Company and its officials who are involved in cheating the people in collecting the money after giving assurance for heavy return by way of interest.*
> *II. Also for direction to the respondent State of Bihar and its officials to take stern action against Bonanza Portfolio Ltd. Company which is running its business in the State of Bihar in collecting money by cheating the people on assurance to give highest return twice by way of interest within ten months in order to protect the innocent people of State of Bihar.*
> *III. And also for necessary relief/reliefs, order/orders, direction/directions for which the petitioners will be entitled in the law as well as in the facts of the case."*

It is the grievance of the petitioners that in the cases lodged by them with Kochas Police Station being Case No. 38 of 2016 dated 07.03.2016, Case No. 108 of 2016 dated 11.07.2016 for the offences under Sections 406, 420/34 of the Indian Penal Code against the named accused and the

Complaint Case No. 351 of 2015 filed in the court of learned C.J.M., Rohtas at Sasaram by petitioner no. 3, no action has been taken and within the knowledge of the State of Bihar and the Central Government including S.E.B.I. these Companies are functioning in the State of Bihar.

The allegation is that they have cheated large number of persons, therefore, it was the primary duty of the government to recommend the Central Government to investigate into the matter through C.B.I. Copies of the F.I.Rs. have been brought on record as annexures to the writ petition.

In the counter affidavit filed on behalf of the Superintendent of Police, Rohtas, it is stated that Kochas P.S. Case No. 38 of 2016 was registered against the named accused and after investigation the case has been found true against accused Daya Shankar Singh. Involvement of other accused persons have not been found. Accordingly, a charge-sheet no. 111 of 2016 dated 30.11.2016 has been submitted against the accused Daya Shankar Singh under Sections 406 and 420 of the Indian Penal Code.

As regards Kochas P.S. Case No. 108 of 2016, it is stated that the case has been found true against the accused Daya Shankar Singh and accordingly he has been chargesheeted. The other accused have not been found involved. Similarly, in Kochas P.S. Case No. 51 of 2015 which arises out of Complaint Case No. 351 of 2015, a charge-sheet has been filed against one of the accused namely Pradeep Kumar.

In this case a counter affidavit has also been filed on behalf of the Economic Offence Unit (In short ‘E.O.U.’) (respondent no. 9). It is stated therein that though the E.O.U. is not investigating the cases lodged by the petitioners but because the allegation is that it is a Chit-Fund Company and the Company is involved in deceiving people at large under the pretext of assuring heavy returns in a short span of time, on the representation of the petitioners time to time the criminal cases were monitored by the E.O.U. and necessary guidelines / directions/instructions were issued to the competent authority at the district level. As regards the case lodged by petitioner no. 1 direction was issued to arrest the Directors of M/S Daya Dak Investment Private Limited. Similarly, the representation of petitioner no. 2 was also considered and accordingly directions were issued to the District Magistrate, Rohtas to take appropriate action under the Bihar Protection of Interest of the Depositor’s Act, 2002. Similar steps have been taken as regards the cases lodged by petitioner no. 3.

A counter affidavit has also been filed on behalf of respondent nos. 11 and 13 it is their submissions that they are not dealing with non-banking financial activities rather the Company is registered by S.E.B.I. and deals with share and mutual funds etc. It is stated that in the charge-sheet filed by Police the Company is not an accused and since the Company namely M/S Bonanza Portfolio Limited is providing the stock broker services to its clients by providing the execution facilities of buying and selling of the shares by the clients on the platforms of the exchange, each of the clients enters into a member client agreement with the trading member as per the rules, regulation and bye-laws of the S.E.B.I. All information in this regard are uploaded into the exchange and each client is registered with the exchange before trading. It is stated that M/S Bonanza Portfolio Ltd. Company has never granted any fixed income/interest to its client.

In one of the counter affidavits filed on behalf of Reserve Bank of India (respondent no. 8) it is stated that an inspection was conducted on 01.11.2018 by the officials of this respondent at the three offices of M/S Bonanza Portfolio Limited. The audited financial and other related documents of the Company were made available to the Inspecting Officers of the Reserve Bank of India. In course of investigation, it has been revealed that the Company is registered with the Registrar of Companies for Delhi and Haryana. It is also registered with Securities and Exchange Board of India (S.E.B.I.) under the Securities and Exchange Board of India Act, 1992. According to this respondent, in course of investigation it could not be found that the Company is carrying on the business of a non- banking financial company as referred to in Chapter IIIB of the Reserve Bank of India Act, 1934, as such, the Company is not required to obtain certificate of registration under Section 45 IA of the Act of 1934.

A supplementary counter affidavit has also been filed on behalf of the Economic Offence Unit duly sworn by the Dy. S.P., E.O.U. Paragraph ‘6’ of the affidavit discloses the various facts which have emerged in course of enquiry. The conclusion reached by the Enquiry Officer is that “the company in question is a Share Broker Company and is registered with S.E.B.I. for the same and it is only S.E.B.I. which has the regulatory authority over the affairs of the Company in case of any violation of share trading laws. The Company does not accept any deposit from its investors and it does not require any registration with the Reserve Bank of India.”

The petitioner no. 1 has withdrawn the complaint filed before S.E.B.I.

Having heard learned counsel for the parties and on perusal of the records, we are of the opinion that on the face of the materials available on the record, this Court need not go on issuing further directions. This Court finds that the authorities having enquired into the matter and charge-sheets have already been filed on the basis of the materials collected in course of investigation against the accused persons. The cases are sub judiced before the learned trial court. The petitioners, if so advised, may pursue their cases in the learned court below and take such steps which may be advised to them in accordance with law for redressal of their grievance.

This writ application stands disposed of accordingly.

(Sanjay Karol, CJ)

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.