

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10393 of 2024

Masaurhi Vyapar Mandal Cooperative Society through its Chairman Arun kumar Yadav, Son of Sri Ram Devi Prasad Yadav, Resident of Village- Barhai tola, P.O. Masaurhi, P.S. Masaurhi, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Cooperative, Government of India New Delhi.
2. The Central, Registrar, Cooperative Societies, Government of India, New Delhi.
3. The Bihar State Cooperative Marketing Union (BISCOMAUN), Gandhi Maidan, Patna through the Managing Director.
4. The Managing Director, The Bihar State Cooperative Marketing Union (BISCOMAUN), Gandhi Maidan, Patna.
5. The District Magistrate, Patna-Cum- Returning Officer, District- Patna.
6. The State Election Authority, Bihar, Harding Road, Patna through its Secretary.
7. The Chief Election Officer, The State Election Authority, Bihar, Harding Road, Patna.
8. The Secretary, The State Election Authority, Bihar, Harding Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.B.K.Mangalam, Advocate
For the State	:	Mr. Shiv Kumar, A.C. to G.A.-3
For the BSEA	:	Mr. Mukesh Kumar, Advocate
For the UOI	:	Mr. Bindhyachal Rai, Advocate
For the BISCOMAUN	:	Mr. Vikas Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 11-07-2024 Heard the parties.

2. The present petition has been preferred for the following reliefs:-

(i) for issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent nos. 3,4 and 5 to produce the voter list prepared by the Returning Officer for



the purposes of holding election for the post of Chairman and the Members of Managing Committee of the Respondent Bihar State Cooperative Marketing Union (hereinafter referred to as the BISCOMAUN) and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that:-

(a) even when the election to the Managing Committee of BISCOMAUN has been notified and it is scheduled to be held on 10.07.2024, however the voter list prepared by the Returning Officer for holding the aforesaid election is not available in a public domain to enable the eligible delegates to go through the voter list and decide to contest or not to contest the election scheduled on 10.07.2024; and

(b) if the large number of delegates has been deprived their right to vote in the election of BISCOMAUN because of the fact that their total share amount is less than Rs.1,000/- but without any intimation to such Cooperative Societies about the aforesaid condition, so brought, the list of delegates prepared by the Respondent nos. 3, 4 and 5 is not a valid list of delegates and any election held on the basis of the list of delegates would be a nullity.

(ii) for a declaration that if any, in case in the share capital for becoming a delegate in the election of BISCOMAUN has neither come in



public domain nor individual societies were informed about such amendments in the bye-laws, the rejection of delegates on the basis of insufficiency of the share amount is thoroughly illegal and cannot be sustained in law.

3. At the outset, Mr. Vikas Kumar representing the Bihar State Cooperative Marketing Union (henceforth for short 'BISCOMAUN') has raised preliminary objection. He submits that writ against BISCOUMAN is not maintainable. In support of his submission, he has drawn the attention of this Court to the order of Division Bench of Patna High Court in **L.P.A. No. 983 of 2023 (in C.W.J.C. No. 7139 of 2023- the Managing Director, Biscomaun Bhawan vs The State of Bihar & Ors.)** in which the Division Bench vide an order dated 19.03.2024 held in paragraphs 8 to 10 as follows:-

"8. Be that as it may, we are of the opinion that the judgment of the Hon'ble Supreme Court does not, at all apply. We cannot discern the facts of the case from Annexure-13 judgment of the Hon'ble Supreme Court, in the Special Leave to Appeal which is produced at Annexure-13 in the writ petition. Ram Chandra Singh had filed the Special Leave Petition in which the State prayed before Hon'ble Supreme Court for making payment of the dues of the petitioner in twelve equal



installments which was directed to be made in eight equal installments with interest @ 6 per cent per annum. There is no declaration of law in the judgment and it does not have the sheen of a binding precedent. Without reference to the facts, there cannot be a direction issued as was done by Hon'ble Supreme Court, which was on specific prayer made by the State to have a quietus to the issue. In such circumstances, neither the order of the Hon'ble Supreme Court nor the decision of the Division Bench, in the writ petition filed by the petitioner himself, come to the aid of the petitioner.

9. The fact remains that by the judgment of the Special Bench cited above, there can be no writ issued against a Co-operative Society. We find absolutely no reason to sustain the impugned judgment of the learned Single Judge and we set aside the same, allowing the appeal and rejecting the MJC petition.

10. We caution the petitioner from initiating further litigation under Article 226 of the Constitution of India on the same subject matter and we desist from imposing cost at this juncture only because the petitioner is a retired employee."

4. He submits that recently, another Single Bench of Patna High Court in C.W.J.C. No. 14161 of 2022 (Ram Jee Singh vs. The Bihar State Co-operative Marketing Union Ltd. & Ors.) on 01.07.2024 accepting the contention in



paragraphs 5 to 7 read as follows:-

“5. Considering the rival submissions and taking note of the judgment passed in L.P.A. No. 983 of 2023, wherein the learned Division Bench taking reliance of Special Bench judgment in Organizer, Dehri C.D. and C.M. Union Limited Vs. State of Bihar & Ors. reported in 2014 (1) PLJR 695 found there can be no writ against the co-operative society; this Court finds absolutely no reason to entertain the present writ petition.

6. At this juncture, learned counsel for the petitioner seeks permission to withdraw the writ petition with a liberty to approach the appropriate authority.

7. In view thereof, the writ petition stands dismissed with the liberty aforesaid.”

5. The last order cited by Mr. Vikas Kumar representing BISCOMAUN is of **Rambabu Singh vs. The Union of India & Ors. (C.W.J.C. No. 21596 of 2019) decided on 21.11.2019**, again by learned Single Judge of Patna High Court and the short order read as follows:-

“Learned counsel for the respondents submits that the writ application seems to be misconceived inasmuch as a writ cannot be maintained against the BISCOMAUN and at the same time the issue raised is with respect to election of respondent no.6 which cannot be



adjudicated in the writ proceeding.

Taking note of the submissions of learned counsel for the respondents, this writ application is held not maintainable and is dismissed accordingly.

The petitioner will have, however, liberty to raise these issues before an appropriate forum in accordance with law. In case, any question of limitation arises for consideration, the same will be considered keeping in view the period spent by the petitioner before this Court.”

6. In that background, this Court is also of the opinion that no writ is maintainable against the BISCOMAUN.

7. In view of the above facts, learned Counsel for the petitioner, Mr. S.B.K. Mangalam submits that he may be permitted to withdraw the petition and approach appropriate forum for the redressal of his grievance.

8. Granting such liberty, the writ petition stands disposed of.

(Rajiv Roy, J)

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