

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.983 of 2023

In
Civil Writ Jurisdiction Case No.7139 of 2023

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The Managing Director, Biscomaun Bhawan, Raja Ji Salai, Chajju Bagh,
Patna, Bihar-800001.

... .. Appellant/s

Versus

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

2.Registrar Cooperative Society, Bihar, Patna.

.....Respondents/Respondents

3.Ram Ishwar Prasad son of Late Gobind Ram, resident of Village and post-
Parthu, PS Ekangarsarai, District Nalanda-801301.

... .. Respondent/writ petitioner

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with

Miscellaneous Jurisdiction Case No. 2993 of 2023

In
Civil Writ Jurisdiction Case No.7139 of 2023

=====

Ram Ishwar Prasad, Male, aged about 65 Years, Son of late Govind Ram,
resident of village-Parthu, PS-Ekangarsarai, District-Nalanda.

... .. Petitioner/s

Versus

1.Mr. Dipak Kumar Singh the State of Bihar, through the Principal Secretary
Co-operative Department, New Secretariat, Patna.

2.Mr. Rajesh Meena Registrar Co-operative Society, Bihar, Patna .

3.Mr. C.K. Anil the Managing Director, Biscomaun Bhawan, Raja Ji Salai,
Chhajju Bagh, Patna.

... .. Opposite Party/s



Appearance :

(In Letters Patent Appeal No. 983 of 2023)

For the Appellant/s	:	Mr.Ashish Giri, Advocate Mr. Sumit Kumar Jha, Advocate Ms. Riya Giri, Advocate
For the Respondent/s	:	Mr.Amit Prakash (GA13)
For the Private Respondents	:	Mr. Shashank Chouhan, Advocate

(In Miscellaneous Jurisdiction Case No. 2993 of 2023)

For the Petitioner/s	:	Mr.Shashank Chouhan, Advocate
For the Opposite Party/s	:	Mr.Amit Prakash (GA 13)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-03-2024

Repetitive actions for the same relief, in law, cannot be appreciated as tenacity of the petitioner, but in legal parlance will be termed as a clear abuse of process of law; which the present writ petition surely is.

2. The instant case is the third attempt of the petitioner to agitate the very same cause before the writ Court. This time over, the petitioner succeeded, with the learned Single Judge directing the Managing Director of the respondent Co-operative Society to grant relief as prayed for by the petitioner in the representation, in terms of the cited judgments of the Hon'ble Supreme Court and this Court. We cannot but say that neither the judgment of the Hon'ble Supreme Court nor of this court would be applicable and the direction to grant the relief would



preempt any judicious consideration by the authority. The petitioner's claim is for disbursement of salary between April-1991 to 29.03.2005 and from 16.11.2005 to 12.01.2006, payable by BISCOMAUN, which claim as of now is grossly delayed.

3. We have heard Mr. Ashish Giri, learned Counsel for the appellant and Mr. Shashank Chouhan, learned Counsel appearing for the private respondents.

4. The respondent who was the writ petitioner had filed CWJC No. 5141 of 2017 for the very same relief. The said writ petition was withdrawn seeking liberty to avail appropriate remedy; as is seen from Annexure-8 judgment dated 19.03.2018. Again, the writ petitioner was before this Court in CWJC No. 19448 of 2019. Since relief was sought against BISCOMAUN which is a Co-operative Society, a preliminary objection was raised by the respondents that a writ petition would not be maintainable based on the Special Bench decision of this Court in the case of **Organizer, Dehri C.D. and C.M. Union Limited Vs. State of Bihar & Ors** reported in **2014(1) PLJR 695**.

5. Learned Single Judge sustaining the preliminary objection dismissed the writ petition, however, again reserving liberty to the petitioner to pursue his remedy before appropriate



forum. The judgment dated 04.11.2019 is produced at Annexure-12 in the writ petition.

6. The writ petitioner filed an appeal from Annexure-12 judgment, which was disposed of by judgment dated 01.03.2021 produced at Annexure-14 referring to S.L.P. No(s). 20717-20719 of 2017, granting liberty to the petitioner, to invite attention of the authority, to the order passed by the Hon'ble Supreme Court. Now, on identical facts claiming the very same relief, a further writ petition was filed which was allowed by the learned single Judge, as per the directions we earlier referred to. The learned Single Judge referred to the order of the Hon'ble Supreme Court and the decision of a Division Bench of this Court, in the case of the petitioner itself, to issue such directions.

7. At the outset, it has to be stated that if the petitioner had a case that there was no compliance of the directions in Annexure-14, he should have filed a contempt and not a further writ petition, especially since he had filed the earlier writ petition also. As of now a contempt petition also will be grossly delayed; but that is not a valid ground to file another writ petition for the very same relief.

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.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2024
Transmission Date	NA

