IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.484 of 2024
In
Civil Writ Jurisdiction Case No.3369 of 2011

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1. The State of Bihar through Director, Department of Industries, Govt. of Bihar, Patna.
2. Bihar State Credit and Investment Corporation Limited, Fourth Floor, Indira Bhawan, Ram Charitra Singh Path, Patna.
3. The Managing Director, Bihar State Credit and Investment Corporation Limited, Fourth Floor, Indira Bhawan, Ram Charitra Singh Path, Patna
4. The Manager OTS, Bihar State Credit and Investment Corporation Limited. Fourth Floor, Indira Bhawan Ram Charitra Singh Patna, Patna.

... ... Appellant/s

Versus

M/S Patna Polson Private Limited A company registered under the Companies Act 1956 having its registered office at Digha Ghat, P.S.- Digha, District- Patna through its Managing Director Shri Krishna Kumar Yadav, S/o Late Mahabir Yadav R/o Polson Model Dairy, P.S. Digha, District- Patna.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Dr. Anand Kumar, Advocate
For the Respondent/s	:	Mr. Saket Tiwary, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 13-08-2025

Heard learned counsel for the appellant and learned counsel for the respondent.

2. The appellant has filed the instant appeal against the judgment and order dated 6.3.2024 whereby the learned Single Judge was pleased to dispose of the writ application (CWJC no.3369 of 2011) directing the Bihar State Credit and Investment Corporation Limited (‘BICICO’ in short) to issue ‘no dues’ certificate in favour of the writ petitioner/respondent.

3. The case of the writ petitioner/respondent in brief is that the petitioner company was established in the year 1956 for manufacturing dairy products. With an object of reviving the company, a loan of Rs.56 lacs was applied for in the year 1980, however, only Rs.20 lacs was sanctioned. Not having been able to start production due to lack of adequate funds, the respondent was looking for ways to liquidate the loan when in the year 2006, BICICO came out with one time settlement scheme i.e. OTS Scheme, 2006. It is further case of the respondent that the OTS amount having been estimated by BICICO at Rs.23.52 lacs, the respondent deposited the sum of Rs.21.52 lacs and submitted that they had already deposited Rs.2 lacs at the time of OTS Scheme, 2004. As the amount of Rs.2 lacs deposited at the time of OTS Scheme, 2004 was not accepted by BICICO, as directed by them, the respondent deposited the sum of Rs.2 lacs on 16.10.2008.

4. It is submitted by learned counsel appearing for the respondent that inspite of having deposited the total amount under the OTS Scheme, 2006 as no dues certificate was not issued by BICICO inspite of demand by the respondent, the respondent filed CWJC no.3369 of 2011 which was allowed by a judgment dated 6.3.2024.

5. On the other hand, it is the case of the appellant/BICICO that it is not in dispute that a loan of Rs.20 lacs had been taken by the respondent who had defaulted in repayment of the same. Though it is true that the respondent applied under the OTS Scheme, 2006, however on perusal of the provisions of the scheme, it would transpire that along with other documents, the applicant/respondent herein was required to submit a certificate from DIC/IADA regarding the unit being non-commissioned/incomplete. The respondent not having provided the said certificate, the benefit of OTS Scheme, 2006 could not be given to the respondent and thus the no dues certificate was rightly not issued in the respondent's favour. It was submitted that the learned Single Judge erred in allowing the writ application and directing the BICICO to issue a no dues certificate in favour of the respondent. The instant appeal be allowed and the order of the learned Single Judge be set aside.

6. In response, it was submitted by learned counsel appearing for the respondent that so far as the requirement of furnishing of certificate from DIC (District Industries Centre) and IADA (Industrial Area Development Authority) are concerned, on one hand, the DIC does not give such certificate and further the IADA grants certificate only when the unit is

running on the land allotted by the IADA. It is thus submitted that no error has been committed by the learned Single Judge in allowing the writ application. There is no merit in the instant appeal and the same be dismissed.

7. Heard learned counsel for the parties and perused the material on record.

8. The relevant facts in brief are that the respondent having applied for loan of Rs.56 lacs in the year 1956 for manufacture of dairy products was sanctioned a loan of Rs.20 lacs. The unit never went into manufacturing activity and was never commissioned. It kept pursuing the BICICO for rehabilitation package but as per its case, no such assistance was forthcoming. In the meantime, the BICICO came out with OTS Scheme, 2004 against which the respondent deposited a sum of Rs.2 lacs. However, due to its poor financial condition, the respondent could not deposit any further amount.

9. The BICICO having come up with another OTS scheme in the year 2006 ie OTS (Term Loan) Scheme, 2006, the respondent received a letter dated 9.6.2006 from the BICICO enclosing with the same a copy of the OTS scheme running into 17 pages. The letter stated that as per the records of BICICO, the respondent's unit was found to be tentatively falling in the

category non-commissioned and an estimated OTS amount under the said category had been worked out tentatively at Rs.23.52 lacs. Accordingly, the respondent assuming that the payment of Rs.2 lacs paid under the OTS Scheme, 2004 shall be adjusted under OTS Scheme, 2006, paid an amount of Rs.21.52 lacs under the OTS Scheme, 2006.

10. It further transpires that a letter dated 17.10.2007 was written by the BICICO to the respondent communicating therein that the matter was placed before the Board of the Corporation. As per the decision taken in the meeting of the Board held on 6.8.2007, the respondent having failed to liquidate the settlement amount within the prescribed time as per the scheme, the amount of Rs.2 lacs paid under OTS Scheme, 2004 had been forfeited and the respondent was requested to make payment of Rs.2 lacs in order to regularise the account under the OTS Scheme, 2006. Accordingly, the respondent deposited the said amount of Rs.2 lacs on 16.10.2008.

11. So far as the question of the unit of respondent being non-commissioned is concerned, it may be mentioned here that the BICICO in their letter dated 9.6.2006 itself while requesting the respondent to settle their dues under the OTS

Scheme, 2006 clearly mentioned therein that as per their records the unit had been found to be under the category non-commissioned. Further the categorical statement of the respondent in different paragraphs of the writ application and specially paragraph no.8 wherein it has been stated that having failed to gather even the working capital, the company never went into any manufacturing activity, the respondent-BICICO in paragraph no.9 of their counter affidavit have accepted the same to be a matter of record.

12. The other point raised by the appellant is that it was essential for the respondent to furnish certificate from DIC/IADA regarding it being non-commissioned. With respect to the same, reference may be made to letter dated 8.8.2009 of the DIC brought on record as Annexure-6 to the writ application. In response to a query under the RTI Act as to whether the office of the DIC gives certificate declaring an industrial unit as non-commissioned, the answer of the Public Information Officer, DIC was that the office does not give (any certificate) declaring an industrial unit as a non-commissioned unit.

13. Further, so far as the IADA is concerned, it is also not in dispute that it grants certificate only when the unit is

running on the land allotted by the IADA.

14. Thus, even though the unit of the respondent was non-commissioned, for these reasons, the respondent could not have satisfied the condition of providing the certificate to the said effect from the DIC or IADA.

15. Having considered the facts and circumstances of the case and specially the BICICO having accepted the entire settlement amount of Rs.23.52 lacs, the learned Single Judge rightly held that the BICICO cannot refuse to grant no dues certificate to the respondent and accordingly, while disposing of the writ application directed the BICICO to issue no dues certificate in favour of the respondent.

16. The Court finds no illegality nor has the appellant been able to show any perversity in the order impugned. The Court finds no merit in the instant appeal.

17. The appeal is dismissed.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	NAFR
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