

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7703 of 2016

1. Rewati Raman S/o - Shri Braj Nandan Singh R/o Village - Jhurkhuria, P.O. - Bahadurpur, P.S. - Sabour, District - Bhagalpur.
2. Rajesh Kumar Ranjan S/o - Sri Mahendra Kumar Singh R/o Village - Henijapur, P.O. - Shivkund, P.S. - Dharhara, District - Munger.
3. Jay Shankar S/o - Sri Girish Prasad Singh R/o Village - Adalpur, P.O. - Madarganj, P.S. - Amdanda, District - Bhagalpur.
4. Shibendu Kumar Singh S/o - Late Mahendra Prasad Singh R/o - Village - Hari Nagar, P.O. P.S. - Akbarnagar, District - Bhagalpur.
5. Birendra Kumar S/o - Sri Bhola Prasad Yadav R/o Village - Khabaspur, P.O. - Khabaspur, P.S. - Akbari Pirpainty, District - Bhagalpur.
6. Binod Kumar Panjiyara S/o - Shri Bhujangi Panjiyara R/o Village - Chutia, P.O. - Chutia, P.S. - Banka, District - Banka.
7. Yogendra Rishideo S/o - Soci Rishideo R/o Village - Garha Rampur, P.O. - Bariyahi, P.S. - Shankarpur, Distt. - Madhepura.
8. Sanjeev Kumar Jaiswal S/o - Late Ganesh Prasad Choudhary R/o - Village - Pathara, P.O. - Pathra, P.S. - Godda Nagar, Town and District - Godda.
9. Madhaw Kumar S/o Sri Pratap Mandal R/o Village - Katia, P.O. - Punsia, P.S. - Rajoun, District - Banka.
10. Jai Nath Das S/o - Sri Vijay Das R/o Village - Gonalwari, P.O. - Chutia, P.S. and District - Banka.
11. Sanjeev Kumar S/o - Ram Bilash Mandal R/o Village - L.C.T. Ghat Road, Post - Kahalgaon, P.S. - Kahalgaon, District - Bhagalpur.
12. Yasmin Fatima D/o - Zobair Ansari R/o Mohalla - Ali Baksh Lane, Momin Tola, P.S. Post - Nathnagar, District - Bhagalpur.
13. Deepak Kumar Singh S/o - Jay Prakash Singh R/o Village - Jhurkhuria, Post - Bahadurpur, P.S. - Industrial Area, Sabour, District - Bhagalpur.
14. Sanjay Kumar S/o - Shri Shyam Lal Mandal R/o Village - Lahrauni, P.O. - Rupouli, P.S. - Rupouli, District - Purnia.
15. Arun Kumar S/o Sri Adhik Lal Singh R/o Village - Kaneri, P.O. Chanpur, P.S. Jagdishpur, District - Bhagalpur.
16. Deepak Kumar S/o Sri Arun Kumar Singh R/o Village - Maheshi, P.O. - Tilakpur, P.S. - Sultanganj, District - Bhagalpur.
17. Bijay Prakash S/o - Late Yudhisthir Prasad Mandal R/o Mohalla - Ishakchak, P.S. - Ishakchak, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Registrar, Co-operative Socieites, Bihar, Co-operative Department, Government of Bihar, New Secretariat, Patna
3. The Bhagalpur Central Co-operative Bank Ltd., Bhagalpur, Jageshwar



Mandal Bhawan, Red Cross Road, Adampur, Bhagalpur

4. The Bihar State Co-operative Bank Ltd, Ashok Raj Path, Patna - 04.
5. Board of Directors, the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur, Jageshwar Mandal Bhawan
6. The Managing Director, the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur, Jageshwar Mandal Bhawan
7. The District Co-operative Officer, District - Bhagalpur.
8. The Branch Manager, Pirpanti Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
9. The Branch Manager, Nawgachhia Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
10. The Branch Manager, Dhoriya Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Banka.
11. The Branch Manager, Bhagalpur Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhaga
12. The Branch Manager Head Office, Bhagalpur, the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
13. The Branch Manager, Banka Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Banka..
14. The Branch Manager Shahkund Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
15. The Branch Manager, Rajoun Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Banka..
16. The Branch Manager Kahalgaon Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
17. The Branch Manager, Bihpur Branch of the Bhagalpur Central Co-operative Bank Ltd. Distt. - Bhagalpur
18. The Branch Manager, Sultanganj Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
19. The Branch Manager Nathnagar Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur
20. The Branch Manager Belhar Branch of the Bhagalpur Central Co-operative Bank Ltd., Distt - Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Jha, Adv. Mr. Avanindra Kr. Jha, Adv. Mr. Narendra Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Rakesh Kumar Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER



5 18-03-2025 Heard Learned Counsel for the petitioners and
Learned Counsel for the State.

I.A. No.5968 of 2016

2. Counsel for the petitioners submits that with the span of time, the present interlocutory application has become infructuous and he is not pressing the present I.A.

3. Counsel for the State has no objection for the same.

4. As such, the present I.A. No.5968 of 2016 is hereby dismissed as having become infructuous.

I.A. No.6822 of 2016

5. Counsel for the petitioners submits that the present interlocutory application has been filed for challenging the Letter contained in Memo No.4839 dated 04.07.2016 which according to him, has stopped the Bank respondents from regularizing the service of the petitioners and others.

6. Counsel for the Bank has no objection for allowing the present I.A.

7. In the light of the submissions made, the present I.A. No.6822 of 2016 is hereby allowed. The additional prayer demanded in the present I.A. for quashing of the Letter contained in Memo No.4839 dated 04.07.2016 (annexure-24 of the I.A.) has been added as amended prayer of the writ petition.



Re:- C.W.J.C. No.7703 of 2016

8. Counsel for the petitioners submits that the present writ petition has been filed directing the Respondents Authorities to consider the case of the petitioners for their regularization/absorption in their services of the Bhagalpur Central Co-operative Bank Ltd. and further to absorb their services in the said Bank in the light of the provisions/regulations framed under the Bhagalpur Central Co-operative Bank Ltd, Bhagalpur (Officer & Employees) Service Regulation, 2012. The further prayer has been made to quash the part of the advertisement published by the Bihar State Co-operative Bank Ltd. whereby and whereunder Respondent No.4 has advertised 12 posts of Assistant in the Bhagalpur Central Co-operative Bank Ltd.

9. Counsel for the petitioners submits that he is not pressing the relief with regard to the advertisement of 12 posts of Assistant, therefore only two reliefs are there. First is regularization and second is quashing of Letter contained in Memo No.4839 dated 04.07.2016.

10. Counsel fairly submits that it has been clearly held that against Co-operative Societies, writ petitions are not maintainable, but here in the present case, he has demanded



relief against the decision of the Registrar Co-operative which has published by him vide Letter contained in Memo No.4839 dated 04.07.2016.

11. Counsel further submits that other similarly situated persons have moved before this Hon'ble Court in C.W.J.C. No.539 of 2017 in which vide order dated 07.01.2019, this Hon'ble Court has pleased to entertain the writ petition and given his finding with regard to the said letter issued in Memo No.4839 dated 04.07.2016.

12. Learned Counsel for the Co-operative Societies fully agrees on the said arguments.

13. Upon hearing the parties, it is necessary for this Court to abstract the decision passed by this Hon'ble Court in case of **Santosh Kumar Chaudhary and Ors. Vs. State of Bihar and Ors.** vide order dated 07.01.2019 passed in C.W.J.C. No.539 of 2017 which states as follows:-

“The petitioners are primarily aggrieved by the letter dated 04.07.2016 contained in Memo No. 4839 of 2016 issued by the Registrar, Co-operative Societies, Patna addressed to the Managing Director, Bihar State Co- operative Bank Limited, Patna intimating that by virtue of the judgment delivered by the Supreme Court in the case of Secretary, State of Karnataka & Ors versus Umadevi & Others (2006) 4 SCC 1, the Co-operative



Bank ought not to proceed further for regularizing the services of contractual employees/daily wagers.

2. The learned counsel for the petitioners has submitted that admittedly they have been working in the Bank as Daily Wagers for the last twenty years. As per the guidelines received from the National Bank for Agriculture and Rural Development (NABARD in short) dated 25th of January, 2010 with respect to the Human Resources Policy, the service rules of Bhagalpur Central Co-operative Bank Limited has been modified and service regulation of 2012 has been enacted which is in force till date.

3. It has also been submitted on behalf of the petitioners that for formulating the aforesaid regulation of 2012, about which reference has been, made above, all necessary sanctions of the State Government under the provisions of Section 18 of the Bihar Co-operative Societies Act, 2008 has been obtained and then only such rules have been brought into existence. It would be relevant to refer to Clause-4 of the aforesaid regulation which reads as hereunder.

"4. Absorption of employee working in the Bank on Contract and Daily wages.

Employee who has been working in the Bank from different, organisation on Contract basis & Also Daily wages employees working in the Bank, when the given an opportunities to be absorbed against the vacant post. BOD will constitute a Screening Committee which will examine their eligibility for absorption with Bank Services against the post on the working.



4. Pursuant to the aforesaid Clause-4, the process of absorption of the daily wages employees of the Bhagalpur Central Co-operative Bank was initiated. The process reached the stage of Interview, after a decision was taken by the Screening Committee with respect to the petitioners and others who had been working in the Bank for approximately two decades. However, for maintaining fairness in the Interview, the bank in question decided to include one member of the Interview Committee as a nominee of the Registrar of the Co-operative Societies, Bihar.

5. This decision was taken keeping in mind that the Registrar of the Co-operative Societies exercises supervisory control/authority over all the Co-operative Societies.

6. Before the Interview of the candidates could begin, the Registrar, Cooperative Societies issued the letter dated 04.07.2016 (impugned in the present petition as Annexure-15) intimating the Managing Director of the Co-operative Banks in a peremptory tenor that after the judgment delivered by the Supreme Court in the Secretary, State of Karnataka Vs Uma Devi (supra), despite the regulation of 2012, the process of absorption should not be continued. Perhaps, the Registrar of the Co-operative Societies was of the view that even if a Co-operative Bank is not a State strictly in terms of Article 12 of the Constitution as well by virtue of the judgment delivered in the special Bench of this Court in the case of The Organizer, Dehri C.D. & C.M. Union Limited Vs. The State of Bihar & Ors 2014 (1) PLJR 695,



employment in any organization would be deemed to be a national wealth and the process of absorption would otherwise be only a manifestation of a side/back door appointment, preventing fresh applicants from obtaining employment.

7. The counter affidavit filed on behalf of the Bhagalpur Central Co-operative Bank Limited (respondent No. 3) and the Managing Director thereof (respondent No. 6) clearly indicate that the process of absorption was halted mid-way only on account of the letter dated 04.07.2016 (Annexure-15) issued by the Registrar, Co- operative Societies in his supervisory capacity.

8. The learned counsel appearing for the petitioners has submitted that once the process of absorption/ appointment had begun, it could not have been halted mid-way but should have been completed.

9. The other argument advanced on behalf of the petitioners is that the judgment delivered in Uma Devi (supra) does not apply to a. non-governmental organization. Additionally, it has been urged that since the regulation of 2012 about which reference has been made earlier, has been framed after obtaining necessary sanction from the State Government under the provisions of Section 18 of the Bihar Co-operative Societies Act, the Co-operative Banks shall have the liberty to control the appointment process in the Bank.

10. In this connection, learned counsel for the petitioners has showed to this Court an order of the another Registrar of the Co-operative Societies who has



conceded to the fact that for the purposes of appointment, the Board of Directors of the concerned Co-operative Bank shall have full authority/independence to deal with such issues.

11. Considering the aforesaid facts as also taking into account the stand of the Bhagalpur Central Co-operative. Bank (respondent Nos. 3 & 6), this Court considers that the letter as contained in Memo No. 4839 dated 04.07.2016 (Annexure-15) passed by the Registrar, Co-operative Societies, Bihar was unwarranted in the facts and circumstances of the case. Once the process had begun, it would only be fair and equitable that the process is allowed to be completed.

12. The statement of the petitioners that they had been working in the Bank to the satisfaction of the Management for the last several years has not been doubted by the respondent Bank.

13. In that view of the matter, if the Bank in question has halted the process of absorption/appointment only by virtue of the letter contained in Memo No. 4839 dated 04.07.2016 (Annexure-15) issued by the Registrar, Co-operative Societies, Bihar, this Court deems it expedient to set aside and hold the aforesaid order as unsustainable and further direct that it shall not be given effect to.

14. It will be open for the Bank to take a decision in this regard and preferably complete the process which has begun within a reasonable period of time with regard to absorption of the petitioners.

15. With the aforesaid directions, the writ



petition is disposed off.”

14. Upon going through this order, it transpires to this Court that the issue directly and substantially of C.W.J.C. No.539 of 2017 and the present writ petition are identical. This Court is fully agreed on the reasons assigned by this Hon’ble Court. It is very much clear from the said decision that the said Letter contained in Memo No.4839 dated 04.07.2016 shall not create any barrier towards granting relief to the petitioners in any manner, and therefore, this Court is of the firm view that the Letter contained in Memo No.4839 dated 04.07.2016 shall not create bar against the petitioners as well as towards the Bank in granting relief to the petitioners.

15. In this view of the matter, this writ petition is hereby disposed off directing the Bank to proceed in accordance with law ignoring the said Letter contained in Memo No.4839 dated 04.07.2016.

16. With the aforesaid observations and directions, the present writ application stands disposed off.

(Dr. Anshuman, J.)

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