IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.387 of 2025

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Sumit Kumar Mishra S/o Bhola Nath Mishra, R/o Village and Post-Parasiya Tara, P.S.-Salempur, District-Deoria, Uttar Pradesh.

... ... Petitioner/s

Versus

1. Union of India through Secretary, Ministry of Finance, New Delhi.
2. Utkarsh Small Finance Bank Ltd. through the Manoj Kumar Jha (Maner Human Resource/Disclaimer Desk), Utkarsh Tower, NH-31 (Airport Road), Sehmalpur, Kazi Sarai, Harhua, Varanasi-221105 (U.P.).
3. Badri Prasad, Assistant Vice President-HR and Training, Utkarsh Small Finance Bank Varanasi.
4. Govind Kumar, Divisional Head, Utkarsh Small Finance Bank, By Pass Road, Bara Chakia, East Champaran, Bihar.
5. Neeraj Kumar Singh, Zonal Head, Utkarsh Small Finance Bank, Zonal Office, Motihari.
6. Shubhashish Mishra, Operational Head, Utkarsh Small Finance Ardali Bajar, Mahabir Mandir Road, Varanasi.
7. Ramanuj Chandra, Regional Manager, Utkarsh Small Finance Bank, Motihari, Bihar.
8. Tarunendra Nath Tiwari, Regional Manager, Utkarsh Small Finance Bank, Lakhpatiya More, Gopalganj, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nishant Sinha, Advocate
For the Respondent/s	:	Mr. Rajesh Kumar, CGC

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 21-01-2025 Heard the parties.

2. The preliminary question, which requires consideration is as to whether writ is maintainable against the Utkarsh Small Finance Bank. Well settled it is that, a private bank are not amenable to writ jurisdiction under Article 226 of the Constitution of India.

3. The issue, aforenoted, has been meticulously

discussed and set at rest by Hon'ble Supreme Court in the case of ***Federal Bank Ltd Vs. Sagar Thomas & Ors., (2003) 10 SCC 733***, wherein, the Hon'ble Court while parting with the case held in paragraph nos. 32 and 33, as follows:-

> *"32. Merely because Reserve Bank of India lays the banking policy in the interest of the banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5(c)(a) of the Banking Regulation Act does not mean that the private companies carrying on the business or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial activity in banking and these companies are to act according to these provisions failing which certain consequences follow as indicated in the Act itself. As to the provision regarding acquisition of a banking company by the Government, it may be pointed out that any private property can be acquired by the Government in public interest. It is now a judicially accepted norm that private interest has to give way to the public interest. If a private property is acquired in public interest it does not mean that the party whose property is acquired is performing or discharging any function or duty of public character though it would be so for the acquiring authority.*
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> *33. For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or a company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by*

private bodies work within a discipline, do not confer any such status upon the company nor put any such obligation upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. The respondent's service with the Bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank. That being the position, the appeal deserves to be allowed."

4. In view of the settled legal position; after some argument, learned Advocate for the petitioner seeks permission to withdraw the present writ petition with a liberty to avail other efficacious remedy.

5. The present writ petition, accordingly, stands dismissed with the liberty aforesaid.

(Harish Kumar, J)

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