

(2004) 03 PAT CK 0088
In the Patna High Court
Case No : M.A. No. 44 of 2004

Bihar State Cooperative Marketing Union Ltd. and Others	APPELLANT
Vs	
State of Bihar and Another	RESPONDENT

Date of Decision : 13-03-2004

Acts Referred:

Citation : (2004) 3 PLJR 216

Hon'ble Judges : Ravi S. Dhavan, C.J.; Navin Sinha, J

Bench : Division Bench

Advocate : Rajesh Pd. Chaudhary, for the Appellant; Rakesh Kumar, for the Respondent

Judgement

1. The Cooperative Society, one of the largest, the court is told, in east India has several cases pending at the Patna High Court. It is known as Bihar State Cooperative Marketing Union Ltd., (in short the BISCOMAUN). A case after case has been filed and is being filed that employees have not been paid their retiral dues and salaries. The business of this Cooperative Society, which was established with every good intention primarily for facilitating agricultural produce into the market, came to a grinding halt. The BISCOMAUN was closed with virtually a lights out and doors locked situation. In one of the orders, the court appointed the Secretary (Mr. Amitab Verma, IAS) as an Administrator of BISCOMAUN. He did his best to revive it. At least the doors of BISCOMAUN were opened. This aspect lies on another record (L.P.A. No. 412 of 2002).

2. The fact that employees have not been paid became a subject matter which went in an appeal before the Supreme Court with the result that notwithstanding that BISCOMAUN has a separate corporate entity noticing the plight of the unpaid employees, the Supreme Court gave a direction that the State of Bihar will deposit 16 crores to take care of payment to the unpaid employees.

3. This is a case where payment to an employee is not denied on a representation made to the administration of BISCOMAUN. The calculation shows

that a payment of Rs. 2,58,997.62 was due as on February 2001.

4. Some difficulty was being created in making the payment which was calculated by the BISCOMAUN itself. The matter led to a contempt proceeding. This itself has become a disease at the Patna High Court that unpaid employees of public bodies have to petition the High Court, and yet further contempt cases after the High Court orders are not carried out. If there is an order in their favour, a letters patent appeal is filed by large public organizations like the BISCOMAUN. Public corporations even seek liquidation only because the workers seek their arrears of salary and retiral dues.

5. There is no dispute that an employee is to be paid. This part is accepted. Despite that the direction of the Apex Court the principle that dues of workers are to be discharged the rightful dues continue to remain unpaid.

6. When payment is not made despite orders of the High Court on the writ petition, Letters Patent Appeal or orders of the Supreme Court, a contempt action is filed. The Contempt Judge is left with no option but to ensure that the dues which are due under the orders of the court be paid and an opportunity is granted. Then an appeal is filed as if apprehending that a punishment may be arriving. This is not the concern of the court what tenor the proceeding may take in the contempt jurisdiction. This appeal has been filed for this purpose.

7. That the learned Judge has desired that the contempt be purged, is there anything wrong in it? The concern of this Court is that unpaid employees whether their pay or retiral dues must receive their dues. It is contended by learned Counsel at the bar that the BISCOMAUN may have to discharge about Rs. 200 crores to take care of unpaid salaries and retiral dues. The court will take the statement as is given. There is nothing before the court as far the record is concerned. We will leave the statement so made by learned Counsel at its face value.

8. But, if there is so much mismanagement that the employees who are recruited are not receiving their emoluments or retiral dues, and for the reason that the BISCOMAUN may have been mismanaged and ultimately had to be shut down then these are matters of accountability, financial accountability, audit of misappropriation of public monies and tax payers monies. This matter cannot linger on in Bihar for years and years so that those who are responsible conveniently escape, either they escape from the State itself or in death. Who will take responsibility of so much quandering and plundering of public monies.

9. This matter be brought to the (sic) the Central Bureau of Investigation (sic) the counsel the C.B.I. Mr. Rakesh Kumar, who is present in the court. Total investigation in the affairs of the BISCOMAUN particularly of the monies (sic) accounted for, the audits not caused, since when and of how much be the subject of a thorough investigation by C.B.I.

10. Consigned.

11. Let a copy of this order be laid re the Hon"ble Judge hearing the contempt proceeding.