

(2001) 01 PAT CK 0025
In the Patna High Court
Case No : C.W.J.C. No. 13580 of 2000

Ram Udit Singh

APPELLANT

Vs

Bihar State Co-operative Marketing Union Ltd. and Others

RESPONDENT

Date of Decision : 17-01-2001

Acts Referred:

Citation : (2001) 1 BLJR 553 : (2001) 1 PLJR 550

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, petitioner has prayed to direct the Respondents to pay his salary for the period from October 1995 to till date and also to pay his current salary. It is also prayed that a direction may be issued to the Respondents to pay interest on the back wages and to award cost.

2. Counter-affidavit has been filed on behalf of Respondent-Biscomaun, in which claims of the petitioner for payment of salary has not been disputed. However, the stand taken in the counter-affidavit is that since the year 1994-95 all the business of Biscomaun have been closed rather collapsed on account of stringent financial crisis prevailing in Biscomaun. Under such circumstances, salary of 2350 regular employees of the Biscomaun has not been paid since September 1995.

3. Earlier, this matter was heard on 11.1.2001, when Mr. Shahi, learned Counsel for the Biscomaun realizing the difficulty to contest the claim requested for time to discuss the matter with the officials and take further instruction. Mr. Shahi, learned Counsel for the Respondent-Biscomaun appearing today has fairly not contested the claim of the petitioner and accepted that the petitioner is entitled for salary as claimed by him. He, however, submitted that the present Administrator has taken various steps to resolve the crisis prevailing in Biscomaun, which may take some time, but expects that something finally will emerge. However, in respect of the claim of the petitioner, Mr. Shahi fairly

submitted that this Court may issue direction whereupon the due salary of the petitioner shall be paid.

4. This Court is unable to appreciate the inaction on the part of the Administration of Biscomaun and several other such organizations where the employees are though continued in the employment, but are not paid their salary, retiral dues, death-cum-retrial dues and other admissible dues and plea of financial crisis prevailing in such organization which are mostly under overall supervision and control of the State Government is taken. Such inaction results in increase in the number of filing and pendency of the matters in this Court, which ought to have been sorted out or resolved by the employer organization or the State Government as per its liability. It is really unfortunate that for such relief employees are compelled to knock the door of this Court and even after they get the relief their legitimate dues are not paid and for that they have to file contempt petition. Such organizations also take undue advantage of the leniency shows by us and do not act and pay their legitimate dues despite the orders of this Court unless in contempt matters this Court takes serious view. This only depicts that the whole system in such organizations have completely failed and the State Government, which has over all control, is also not paying any heed to it in the light of Full Bench decision of this Court in the case of Manikant Pathak and Ors. v. State of Bihar and Ors. 1997 (1) PLJR 665. However, this Court is not concerned with the internal matter and the policy of the State Government vis-a-vis such organizations, but, in my opinion, the prime responsibility to pay such dues is of the employer and in the instant case Biscomaun, and if they have failed to discharge their duty, immediately necessary steps should be taken for its winding up by the competent authority and/or the State Government as the case may be. But, in no case such organization should be allowed to continue, take work from the employees and not pay their dues, placing the entire family of the employees to complete starvation. The responsibility to generate fund for discharging such liabilities is of the employer and in case of failure they do not deserve to continue.

5. Accordingly, this writ petition is allowed. The Respondent-Administrator of the Biscomaun is directed to pay the entire due salary of the petitioner within two weeks of the receipt/production of a copy of this order. Having regard to the financial crisis prevailing in Biscomaun, this Court does not feel inclined to award interest on back wages, but the petitioner having been compelled to move this Court on account of inaction on the part of the Respondents, this Court finds it to be a fit case for awarding cost of Rs. 2,000/- which should be paid by the Administrator, who is head of the organization from his pocket within the aforesaid time.