

(2024) 07 JH CK 0020
In the Jharkhand High Court
Case No : LPA No. 236 Of 2024

State Of Jharkhand

APPELLANT

Vs

Digambar Rai

RESPONDENT

Date of Decision : 01-07-2024

Acts Referred:

Citation : (2024) 07 JH CK 0020

Hon'ble Judges : Shree Chandrashekhar, J; Navneet Kumar, J

Bench : Division Bench

Advocate : Manish Kumar

Final Decision : Dismissed

Judgement

1. The State of Jharkhand is aggrieved by the following directions issued by the writ Court in WP(S) No. 5986 of 2015:

"24. This Court also finds that the order dated 19.10.2012 by which the Secretary of the cooperative department had asked the various cooperative banks to submit the details of the payment due to the petitioners/paid managers working under different cooperative societies so that appropriate allocation of fund as per the budget could be made, was in accordance with law in view of the fact that the fund from which the petitioners were to be paid included grant-in-aid from the State Government. It further appears that pursuant to order dated 19.10.2012, the necessary details have already been forwarded, but the same could not be taken to a logical end in view of the impugned order dated 01.08.2013 which recalled the order dated 19.10.2012.

25. Accordingly, this Court having set-aside the order dated 01.08.2013 directs the Secretary, Department of Agriculture, Animal Husbandry and Cooperative (the successor of Department of cooperation having merged with other departments) to take appropriate steps within a period of one month from the date of receipt of a copy of this order so that further action be taken in terms of the order dated 19.10.2012 for seeking budgetary allocation for release of grant

for the respondent cooperative bank or its successor in interest. It is expected that the Government would take a humane approach and also consider the fact that the fund from which the payment was to be made to the paid managers, included grants from the state government as per the circular no. 503 dated 31.05.1989.

26. Considering the judgement passed in the case of Dhiren Kumar Mandal (Supra) [which has been upheld by the Hon'ble Division Bench against which SLP has already been dismissed] wherein a direction was issued to the cooperative bank to make payment, there can be no reason to have a different approach so far as the present writ petitioners are concerned. It is not in dispute that a number of similar directions have been made in different writ petitions from time of time.

27. Accordingly, the Chief Executive Officer, Jharkhand State Cooperative Bank is directed to release the admissible amount subject to verification of work done by the petitioners within a period of 3 months from the date of receipt of a copy of this order to be produced by the petitioners along with a representation and a copy of the writ records. Considering the order passed in WP(S) No. 1232 of 2016 dated 23.10.2019, it would be permissible for the respondent bank to adjust the payment so made against the grant-in-aid received from the state government."

2. This Letters Patent Appeal has been filed after 542 days of the period of limitation.

3. Seeking condonation of the aforesaid period of delay I.A.No. 6370 of 2024 has been filed stating as under:

"5.That it is humbly stated and submitted that in light of the Hon'ble writ Court order and the representation filed by the petitioner thereupon and the subject matter of the issue, vide departmental letter no. 271 dated 02.03.2023, the file forwarded to the Jharkhand State Cooperative Bank Ltd. and the Registrar, Cooperative Societies, Jharkhand, Ranchi for taking appropriate steps in the instant case under the law. The Jharkhand State Cooperative Bank Ltd. thereafter vide letter dated 15.06.2023 requested for the grant-in-aid to the bank.

6.That it is humbly stated and submitted that the opinion that LPA may be preferred against the impugned order dated 28.11.2022 passed in WP(S) No. 5986/2015 with WP(S) No. 6160 of 2015 and also in another case of similar nature being order dated 23.10.2029 in WP(S) No. 1232 of 2016 was received from the Law Department, State of Jharkhand on 03.05.2023. In furtherance of the same, the department duly filed LPA No. 623 of 2023 against the order dated 28.11.2022 passed in WP(S) No. 6160 of 2015. However, due to some inadvertence the order dated 28.11.2022 passed in WP(S) No. 5986 of 2015 was not challenged in the aforesaid Intra-Court Appeal being LPA No. 623 of 2023 and only the order passed in WP(S) No. 6160 of 2015 was challenged. The

aforesaid inadvertent error was noticed later and appropriate steps were taken and thereupon instant LPA vide Oath no. 4395 dated 12.04.2024 was filed."

4. The casual approach of the State-authorities is reflected in the manner the statements for condoning the delay of 542 days have been made; the cause shown is not sufficient for condoning the delay. However, we have also glanced through the order passed by the writ Court only to ascertain if the delay is not condoned the State of Jharkhand would suffered irreparable loss and injury. The writ Court's direction is based on a decision rendered in "Dhiren Kumar Mandal v. The State of Jharkhand and Others" 2016 SCC OnLine Jhar 523 and in view of the order passed in WP(S) No. 1232 of 2016.

5. Having regard to the aforesaid facts and circumstances in the case, we are not inclined to condone the delay of 542 days in filing the present Letters Patent Appeal and, accordingly, I.A. No. 6370 of 2024 is dismissed.

6. Consequent upon dismissal of limitation petition, LPA No. 236 of 2024 is dismissed.