

(2021) 05 JH CK 0027

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1298 of 2021

Suman Agarwal

APPELLANT

Vs

Union of India & Another

RESPONDENT

Date of Decision : 28-05-2021

Acts Referred:

Indian Penal Code, 1860 — Section 406, 409, 420, 467, 468, 471

Citation : (2021) 05 JH CK 0027

Hon'ble Judges : Kailash Prasad Deo, J

Bench : Single Bench

Advocate : Yogesh Modi, Rajiv Sinha

Final Decision : Allowed

Judgement

Heard, learned counsel for the petitioner, Mr. Yogesh Modi on I.A. No. 2399/2021 with a prayer to accept deposits from the petitioner, which she has

collected from her depositors / investors, for the month of March, April and May, 2021 under Mahila Pradhan Kshetriya Bachat Yojna (MPKBY)

Scheme.

Learned counsel for the petitioner has submitted that petitioner was appointed as ""Agent"" in the year 1998 under Mahila Pradhan Kshetriya Bachat

Yojna vide Authority No. 148/1997-98, which was subsequently changed as Authority No. 26/2005-06 and she continued to work as authorized agent

under MPKBY Scheme without any complaint from any corner till December, 2019. In December, 2019, she has some doubt about functioning of her

staff in her agency and thus, in the month of July, 2020, an F.I.R. has been lodged vide Ranchi Kotwali P.S. Case No. 99/2020 dated 21.07.2020

under Sections 406, 420, 467, 468 & 471 of Indian Penal Code against three named accused persons, who are staff of the petitioner's agency, but

there is allegation of connivance of the officials and staff of postal department.

Learned counsel for the petitioner has further submitted that on 07.12.2020, Senior Superintendent of Post Offices, Ranchi (Respondent no. 2) has

wrote a letter to National Saving Executive Officer, Ranchi to terminate the agency of the petitioner, who has been appointed as agent by National

Saving Executive Officer, on the allegation of fraudulent act done by agent in contravention of the condition of the licence and subsequently, Post

Office has also filed an F.I.R. against the petitioner and others vide Ranchi Daily Market P.S. Case No. 34/2020 on 10.12.2020 under Sections 409,

420, 467, 468, 471 & 34 of the Indian Penal Code against Suman Agarwal (petitioner) and other persons including postal officials. Both F.I.Rs. are

under investigation before Jharkhand State Police in the district of Ranchi.

Learned counsel for the petitioner has further submitted that subsequently on the complaint made by Senior Superintendent of Post Offices, Ranchi

(Respondent no. 2), National Savings Executive Officer, Ranchi has passed an order of suspension of working of the petitioner being an agent on

05.01.2021. The petitioner has filed her show cause before the National Savings Executive Officer, Ranchi and after hearing the party, the National

Savings Executive Officer, Ranchi revoked the order dated 05.01.2021 with regard to suspension of functioning of petitioner as a agent vide letter

dated 29.01.2021. Thereafter, petitioner approached the Respondent no. 1 - Sub Post Master for deposit of her collected amount from depositors in

the post office, which is refused by Sub Post Master. Thus, petitioner preferred writ petition before this Court vide W.P. (C) No. 762/2021. The said

writ petition was disposed of vide order dated 02.03.2021 with a direction to represent before the Senior Superintendent of Post Offices, Ranchi for

deposit of the money. Thereafter, final order was passed on 10.03.2021 by the Senior Superintendent of Post Offices, Ranchi (Respondent no. 2)

directing the petitioner namely, Suman Agarwal to deposit one time Rs. 25 lakhs, but she has no right to collect the installment of the depositors till

further order. The said order of Senior Superintendent of Post Offices, Ranchi (Respondent no. 2) has been assailed in the present writ petition i.e.

W.P. (C) No. 1298/2021 by the petitioner.

The instant writ petition has been preferred on 18.03.2021 and it was heard on 25.03.2021 by the Coordinate Bench and respondent was directed to

file counter affidavit within four weeks, but counter affidavit could not be filed.

In the meantime, National Saving Executive Officer has also passed order on 29.01.2021 and 08.03.2021 directing the Senior Superintendent of Post

Offices, Ranchi to accept the money of the depositors to be deposited by the petitioner under MPKBY Scheme.

Learned counsel for the petitioner has submitted that if the amount is not deposited for four months, the account will be discontinued and the

depositors may lose their benefits and there may be deduction in the interest to the depositors by the post office, for which depositors will suffer,

though they have no fault on their part.

Under the aforesaid circumstances, this Court may direct the Respondent to accept the money collected by the petitioner from the depositors, to be

deposited in the post office in their accounts, so that depositors may not suffer irreparable loss.

Learned counsel for the petitioner has further submitted that counter affidavit has not been filed, as such, matter remained pending before this Court,

thus necessity has arisen to prefer this interlocutory petition before the Vacation Bench vide I.A. No. 2399/2021.

Learned counsel for the Respondents, Mr. Rajiv Sinha has opposed the prayer and has submitted that because of the lock down counter affidavit has

not been filed, but he will file counter affidavit immediately after re-opening of the Hon'ble High Court after summer vacation on 07.06.2021.

Learned counsel for the Respondents has further submitted that no relief can be granted to the petitioner in the form of interim order as the same will

amount to allowing the writ petition of the petitioner.

Learned counsel for the Respondents has further submitted that National Saving Executive Officer has also directed the petitioner to accept the

deposit of the depositors up to March, 2021 and as such, petitioner may not be permitted to collect the amount from the depositors during pendency of

the writ application.

Considering the rival submission of the parties, looking into the letter passed by the National Saving Executive Officer, Ranchi and to protect the

interest of the depositors, who are not at fault, this Court directs the Sub Post Master, Old Commissioner Compound Post Office, Ranchi (Respondent

no. 1) to accept the money of the depositors collected by this petitioner through

her agency up to March, 2021 vide Authority No. 148/97-98, which was subsequently changed as Authority No. 26/05-06, so that depositors' interest may be protected as last date to deposit the said amount as per learned counsel for the petitioner will expire on 10.06.2021 for the month of March, 2021.

Under the aforesaid circumstances, this Court directs Sub Post Master, Old Commissioner Compound Post Office, Ranchi (Respondent no. 1) to accept the same before 10.06.2021.

This Court only pass such interim order to protect the interest of the depositors without interfering in the merit of the case as in absence of counter affidavit, this Court cannot decide the writ petition.

Accordingly, I.A. No. 2399/2021 is allowed to the above extent.

Respondent no. 1 shall ensure that the petitioner shall deposit the amount.

It is expected that both the parties will cooperate in disposal of the writ petition before appropriate Bench after re-opening of the Court after Summer Vacation.

However, this Court directs the Director General of Police, Jharkhand to look into the investigations of both the F.I.R. i.e. Ranchi Kotwali P.S. Case

No. 99/2020 dated 21.07.2020 and Ranchi Daily Market P.S. Case No. 34/2020 dated 10.12.2020, which are being continued by Jharkhand Police in

the district of Ranchi or whether these cases are fit to be transferred to any other organization like Enforcement Directorate or any other Central

Organization as matter may be delayed because of non-investigation by proper authority under law.

Let a copy of this order be communicated to the Director General of Police, Jharkhand through FAX by tomorrow i.e. by 29.05.2021.