

(2013) 07 PAT CK 0087

In the Patna High Court

Case No : LPA No. 156 of 2011 in CWJC No. 136 of 2004 and Interlocutory
Application No. 710 of 2011 in LPA No. 156 of 2011

The Bhagalpur Central Co-operative Bank Ltd.

APPELLANT

Vs

Shukhdeo Jha

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Citation : (2014) 1 PLJR 313

Hon'ble Judges : Rekha Manharlal Doshit, C.J;Ashwani Kumar Singh, J

Bench : Division Bench

Judgement

Rekha Manharlal Doshit, C.J.—Feeling aggrieved by the order dated 29th October, 2010 made by the learned single Judge in C.W.J.C. No. 136 of 2004, the respondent-Bhagalpur Central Co-operative Bank Limited (hereinafter referred to as "the Bank") has preferred this Appeal under Clause 10 of the Letters Patent. The respondent Nos. 1 to 7, the writ petitioners, were the Managers in the concerned Primary Agriculture Credit Cooperative Societies. It appears that for want of funds, the petitioners have not been paid their salary. Feeling aggrieved, the petitioners approached this Court under Article 226 of the Constitution in above C.W.J.C. No. 136 of 2004. According to the petitioners, they having been selected by the State Government for appointment in the Credit Societies, if the Societies do not have the sufficient fund to pay the salary, it is the duty of the State Government to ensure that sufficient funds are made available to the Societies so that the Societies can pay salary to their Managers.

2. The petition was contested by the State Government and the Bank. The learned single Judge has allowed the petition to the extent that the Bank has been directed to arrange for the funds and to distribute to the writ petitioners the amount of wages/salary. Therefore, this Appeal.

3. Learned advocate Mr. Nitiranjana Jha has appeared for the Bank. He has submitted that the Bank does not owe salary to the writ petitioners. The writ petitioners are not the employees of the Bank. The Bank being the disbursing

authority, the Bank will pay as and when the funds are made available.

4. Learned advocate Mr. Ishwari Singh has appeared for the writ petitioners. He has submitted that it is the duty of the State Government to generate funds so that the Bank can make payment to the writ petitioners. Mr. Ishwari Singh has relied upon the judgment of this Court in the matter of Shail Devi Vs. The State of Bihar and Others, .

5. We have perused the records and the above referred judgment. It cannot be gainsaid that the petitioners are the Managers employed by the concerned Credit Co-operative Societies and that they are neither the Government servants nor the employees of the Bank. The petitioners, therefore, cannot have a claim either against the Bank or against the State Government.

6. In our opinion, the learned single Judge has erred in issuing direction to the State Government to arrange for the funds for payment of unpaid salary to the writ petitioners. The claim made against the Bank or the State Government is totally misconceived.

7. For the aforesaid reasons, the Appeal is allowed. The impugned order dated 29th October, 2010 made by the learned single Judge in C.W.J.C. No. 136 of 2004 is set aside. C.W.J.C. No. 136 of 2004 is dismissed.

8. Interlocutory Application stands disposed of. We clarify that this order shall not preclude the writ petitioners from pursuing a legal remedy for recovery of their unpaid salary from the concerned Societies.