

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21160 of 2019

1. Chandeshwar Kishor Son of Late Munshi Lal Roy Resident of Mohalla- Road No.24N Rajiv Nagar, Police Station- Rajiv Nagar, District- Patna.
2. Dhananjay Kumar Son of Sri Ganesh Choudhary Resident of behind of Dakbangloe, Police Station- Piru, District- Bhojpur.
3. Rajeev Ranjan Son of Sri Chandrika Manjhi Resident of New Etwarpur Lalu Path, P.S.- Parsa Bazar, District- Patna.
4. Dinesh Kumar Son of Sri Suresh Choudhary Resident of Indrapuri Road No. Zero, P.S.- Patliputra, District- Patna.
5. Mritunjay Kumar Son of Late Keshav Prasad Resident of Mohalla- G-119, P.C. Colony, Police Station- Kankarbagh, District- Patna.
6. Ajay Kumar Son of Sri Babu Chand Paswan Resident of New Patna Colony Hasanpura Road, Police Station- Beur, District- Patna.
7. Ravi Kumar Son of Late Gouri Shankar Resident of Noorani Bagh 5-A Colony, Police Station- Alamnagar, District- Patna.
8. Shashi Bhushan Prasad Son of Late Ram Pyare Ram Resident of Gagdishpur, Police Station- Jamhor, District- Aurangabad.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Govt. of Bihar, Patna.
2. The Registrar, Co-operative Societies, Bihar Department of Co-operative, Bihar, Patna.
3. The Deputy Registrar (Sugar Cane), Co-operative Societies, Department of Co-operative, Bihar, Patna.
4. The Joint Registrar, Co-operative Societies, Department of Co-operative, Patna Division, Patna.
5. The Board of Directors through its Chairman Bihar State Co-operative Bank Ltd. Ashok Rajpath, Patna.
6. The Managing Director, Bihar State Co-operative Bank Ltd., Ashok Rajpath, Patna.

... .. Respondents

Appearance :

For the Petitioners : Mr.Kundan Kumar Sinha
For the Respondent State: Mr.Chitranjan Sinha (Paag2)
Mr.Shailendra Kumar, AC to PAAG-2
For the Respondent Bank : Mr. Prashant Kumar

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 11-12-2019



The petitioners claim that they were appointed against various posts in Bihar State Co-operative Bank Limited (hereinafter referred to as 'the Bank'), initially on contractual basis through a process of selection held by the Institute of Entrepreneurship Development, Bihar, at the request of the Bank. They continued as such after their appointment on contractual basis till their services were duly regularized by a decision taken by the Board of Directors of the Bank on 07.08.2013. The resolution of the Bank has been brought on record by way of Annexure-5 to the writ application.

2. They are aggrieved by a communication dated 23.09.2019 made by the Deputy Registrar (Sugarcane), Co-operative Societies, Government of Bihar, addressed to all the members of the Board of Directors of the Bank, whereby they have been asked to respond as to why appropriate action be not taken by the Registrar, under Section 41 of the Bihar Co-operative Societies Act, 1935 (hereinafter referred to as 'the Act'), because the regularization of these petitioners, based on decision of the Board of Directors of the Bank, was illegal and against the personnel policy of the Bank. All appointments against the posts above the rank of Assistant are to be filled-up through I.B.P.S. It is



in this background, the Deputy Registrar has mentioned that the decision to regularize the services of these petitioners was illegal.

3. Learned counsel appearing on behalf of the petitioners has submitted that the respondents are contemplating initiation of recovery proceeding of the amount received by the petitioners as salary after their regularization, on the basis that their regularization itself was bad. He has submitted that before recording his opinion in the letter dated 23.09.2019, that regularization of these petitioners by the Board of Directors of the Bank was contrary to the personnel policy of the Bank, no opportunity of representation or hearing of any kind was afforded to the petitioners. He has accordingly submitted that till the petitioners are given reasonable opportunity of representation and hearing, no coercive steps should be taken against them in the matter of their appointment by way of regularization and payment of salary etc.

4. Learned counsel appearing on behalf of the respondent State of Bihar, on the other hand, has submitted that the impugned communication is addressed to the Board of Directors of the Bank and they have been asked to explain as to why action be not initiated against them invoking Section 41 of the Act, these



petitioners do not have any *locus standi* to question the said decision at this stage.

5. Learned counsel appearing on behalf of the Bank, on the other hand, has submitted that the Bank enjoys autonomy under Section 44AV of the Act in all internal administrative matters, including in the matters of personnel policy, staffing, recruitment, posting and compensation to staff and appointment of auditors and compensation for audit and internal control system. He has drawn my attention to Regulation 7(2) of the Service Regulations, 2013 of the Bank, framed in exercise of powers conferred by Section 44AV(b) of the Act, to contend that it is well within the jurisdiction of the Board of Directors of the Bank to absorb such contractual employees, in regular service of the Bank, who have come through competitive examination conducted by the Bank, provided such employees have completed at least five years of continuous service in the Bank, their performance is satisfactory and there is no adverse remarks against them. He has accordingly defended the action of the Bank, while making his submissions on behalf of the Bank.

6. It goes without saying that no decision can be taken, upsetting the decision of the Board of Directors of the Bank, whereby services of the petitioners have been regularized in the



Bank, unless they are given a reasonable opportunity of representation and hearing. No coercive action, having adverse civil or evil consequences, can be taken against the petitioners without following the principles of natural justice. For the present, the Court does not feel any necessity of entering into the correctness of the impugned communication dated 23.09.2019. It is reiterated that the said communication is addressed to the Board of Directors of the Bank and they have been asked to respond to the said communication. It will be open for the Bank/the members of the Board of Directors of the Bank either to respond to the said communication or question the correctness thereof before appropriate forum in accordance with law.

7. With the aforesaid observation, this application stands disposed of.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.12.2019.
Transmission Date	N/A

