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**(2022) 01 PAT CK 0013**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 10116 Of 2021

Shree Nath Pathak

APPELLANT

Vs

Union Of India

RESPONDENT

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**Date of Decision:** Jan. 3, 2022

**Citation:** (2022) 01 PAT CK 0013

**Hon'ble Judges:** Sanjay Karol, CJ; Sanjeev Prakash Sharma, J

**Bench:** Division Bench

**Advocate:** Ashish, S. Raza Ahmad, Ajay Kumar Rastogi

**Final Decision:** Disposed Of

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### **Judgement**

The petitioner has prayed for the following relief/s :-

A. For issuance of an appropriate writ/writs, direction/s, order/s commanding the respondents to immediately made payment of the maturity

amount/due amount of the petitioner forth with which was deposited by the petitioners to the respondent no.6 to 10 at the office of respondent no.10 in

the name of investment and prays for consequential benefit as entitled to the petitioner in the light of facts and circumstances of the present case.

B. For direction to the respondent no. 6 to 10 to pay the interest @ 18 % per annum on the amount invested by the petitioner till the date of final

payment along with compensation for the mental and economical harassment by the respondent-company.

C. For a direction to instituted criminal case against the omission and commission deliberately done by the respondent no. 6 + 10.

D. For a direction to the respondents no. 1 to 5 take appropriate legal action against respondent no. 6 to 10 for their breach of contract and cheating

with the petitioners.

E. For a direction to the respondent no.2 and 3 to take appropriate action for deliberate criminal liabilities which was shown by the respondent

company keeping in view of the similar facts raised in C.W.J.C. No. 5053/2019 and C.W.J.C. No. 281/2019 vide orders dated 7.07.2019 in C.W.J.C.

No. 981/2019 and order dated 02.08.2019 in C.W.J.C. No. 5055/2019.

F. For any other relief/reliefs to which the petitioners are found entitled under the facts and circumstances of the case.

Shri Ajay Kumar Rastogi, learned Additional Advocate General No. 10 invites our attention to the provisions of Bihar Protection of Interests of

Depositors (In Financial Establishment) Act, 2002 and the corresponding Rule of 2004.

We find the petitioner has equally alternate efficacious remedy and the issues raised in the present lis can be easily adjudicated by the authority

stipulated under the provisions. We also notice that in one such similar matter, learned Single Judge in C.W.J.C. No. 5053 of 2019 titled as Ashok

Kumar Singh Vs. the Union of India and Ors., has already dismissed similar petition.

As such, liberty is granted to the petitioner to take recourse to the remedies under the Act.

Shri Ajay Kumar Rastogi, learned Additional Advocate General No. 10 states that if such petition is preferred within four weeks, issue of limitation

shall not come in the way of deciding the matter on merits.

As such, petition stands disposed of in the following mutually agreeable terms:-

(a) Petitioner is permitted to take recourse to the remedies under the Act within a period of four weeks from today;

(b) In the event of taking appropriate recourse to the remedies under the Act, within a period of four weeks from today, the issue of limitation, if any,

shall not come in the way of adjudication of the matter on merits;

(c) Opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;

(d) Petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;

(e) The appropriate authority shall decide the matter on merits, in compliance of the principles of natural justice;

(f) The appropriate authority shall pass a reasoned and speaking order, within a period of six months from the date of taking recourse to remedies

under the Act;

(g) Copy of the order passed by the appropriate authority shall be supplied to the parties;

(h) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(i) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the

same shall be dealt with, in accordance with law and with reasonable dispatch;

(j) We have not expressed any opinion on merits and all issues are left open;

(k) Liberty reserved to the petitioner to challenge the order, before the appropriate forum, if required and desired.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.