

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5249 of 2015

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Sri Satendra Narayan Singh, Son of Sri Shravan Kumar Singh, Resident of
Village+Post- Darauli, P.S.-Darauli, District- Siwan

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Siwan.
2. The District Magistrate, Siwan.
3. A.D.M., Siwan
4. The Mines Commissioner cum Principal Secretary, Department of Mines and Geology, State of Bihar.
5. The Director, Department of Mines and Geology, State of Bihar.
6. The District Mines Officer, Siwan.
7. The Competent Officer cum Mines Inspector, Siwan.
8. The Certificate Officer, Siwan

.... Respondents

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Appearance :

For the Petitioner : M/s Binod Kumar Singh and
Sushil Kumar, Advocates
For the State : Mr. Sanjeev Kumar, AC to SC I
For the Mines Deptt. : Mr. Rajendra Prasad, Special P.P.
Mr. D.K. Sinha, Sr. Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 22-05-2015 I have heard learned counsel for the parties.

The petitioner has filed this writ application for quashing of the entire proceeding of Certificate Case No. 147/2007 as he has received notice under section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter to be referred to as “the Act”) on 14.12.2007 for an amount of Rs. 75433/- payable by way of interest on the requisition of the District Magistrate, Siwan. He also seeks direction to return the excess money deposited with the respondent no. 6 to him and also for payment of legal costs etc.

It appears that the petitioner has received notice under



section 7 of the Act which is dated 14.12.2007, however, very interestingly, a copy of the certificate has not been appended with the writ petition and no reason has been assigned for such omission.

It is well settled that if one desires to deny the liability then he/she has a right under section 9 of the Act to file an objection denying his/her liability and the certificate officer, thereafter, has to consider everything and pass a reasoned order upon such objection under section 10 of the Act. While doing so, he has power to set aside, modify or vary the certificate accordingly. It is well known that a certificate is always signed and issued under section 7 of the Act *ex parte* and a provision has been made under section 9 of the Act for filing objection.

The petitioner admittedly has not filed any objection under section 9 of the Act within the stipulated time and has come to this Court after coercive steps are being taken against him.

However, in view of the fact that, at the time of hearing, learned counsel for the petitioner submitted that the petitioner may be allowed to file his objection under section 9 of the Act as there has been apparent error committed by the Department and, in fact, he has paid excess amount which is required to be returned by the Department, this Court would be inclined to grant one opportunity

to the petitioner.

Accordingly, this writ application is being disposed of granting liberty to the petitioner to approach the Certificate Officer concerned by filing objection under section 9 of the Act within a period of eight weeks from today along with a copy of this order. Upon such objection having been filed by the petitioner, let the Certificate Officer concerned consider and dispose of the same in accordance with law by passing a reasoned order after granting reasonable opportunity to the petitioner in terms of the provisions contained in section 10 of the Act.

Till such decision is taken by the Certificate Officer concerned, let no coercive action be taken against the petitioner by the Certificate Officer for recovery of the certificate amount. However, it is also made clear that if the petitioner fails to file the objection within the aforesaid time of eight weeks, then the Certificate Officer would be at liberty to proceed in the matter in accordance with law.

(Dr. Ravi Ranjan, J)

SC/-

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