

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22325 of 2013

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Jitendra Kumar @ Jitendra Kumar Yadav Son of Fagu Yadav Resident of Village- Ktahari Bari, P.O. Batarde, P.S. Barauli, District- Gopalganj. At Proprietor, M/S "Kathari Sweets & Namkins" Mohalla-Saguna Mor, P.O.+P.S. Danapur, Dist. Patna.

.... **Petitioner**

Versus

1. The State of Bihar through Secretary, Labour, Employment and Training, Govt. of Bihar, Patna
2. Labour Commissioner, Department of Labour, Employment and Training, New Secretariat, Patna
3. Deputy Labour Commissioner, Shram Bhawan, 20/84 Officers Flat, New Punaichak, Patna
4. Labour Superintendent, 20/84 Officers Flat, New Punaichak, P.S. Shastri Nagar, District- Patna

.... **Respondents**

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Appearance :

For the Petitioner: Mr. Suresh Prasad
For the Respondents: Mr. S.K. Sinha, GP - 15

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 28-07-2015 Heard Sri Suresh Prasad, learned counsel for the petitioner and Sri Sharat Kumar Sinha, learned Govt. Pleader - 15.

The petitioner, who is proprietor of M/s Kathari Sweets & Namkins, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of Demand Notice No. 2 (Camp) dated 27-08-2013, whereby the petitioner has been asked to deposit **Rs. 20,000/-** (twenty thousand) through bank draft by a particular date, failing

which, it was intimated that recovery shall be effected in view of provisions contained in Bihar and Orissa Public Demand Recovery Act. The Notice has been impugned as **Annexure - 1** to the writ petition.

Learned counsel for the petitioner submits that the Labour Superintendent, Patna on 27-08-2013 itself made an inspection and alleged the petitioner that he had employed a child labourer below the age of fourteen years and on the same day, he issued notice directing the petitioner to deposit Rs. 20,000/-. The said notice was issued purported to be in compliance with the order passed by the Hon'ble Apex Court in a case of **M.C. Mehta -Vs.- State of Tamil Nadu and others.**

Learned counsel for the petitioner has made a specific pleading that the labourer, which has been said to be child labourer, was above 14 years of age. In support of his age, the petitioner has brought on record a School Leaving Certificate, vide **Annexure - 2** to the writ petition. Learned counsel for the petitioner has emphatically argued that the

labourer was not a child labourer nor adequate opportunity was given to explain his case and order has been issued completely violating the principle of natural justice.

In this case, a counter affidavit has also been filed and in paragraph - 6 of the counter affidavit, the respondent has accepted the averment made by the petitioner in paragraph -7 of the writ petition regarding the age of the said so called child labourer.

It is true that the Apex Court had issued direction to impose compensation of Rs. 20,000/- in case it is found that a child labourer below the age of 14 years was employed in an establishment. The compensation of Rs. 20,000/- is required to be kept in Child Labourer Rehabilitation-cum-Welfare Fund. However, in the present case, the order of the Apex Court has not been followed by the respondent in its right perspective. In any event, if an order is being passed against a person, then it is expected that such order must be passed in accordance with law. On perusal of **Annexure - 1** to the writ petition, it is evident

that inspection was conducted on 27-08-2013 at 3:20 P.M. and on the same date, the order was issued i.e. on 27-08-2013, whereby, the petitioner was directed to deposit Rs. 20,000/-. Meaning thereby that the Labour Superintendent has given a complete go bye to the statutory provision. Moreover, in this case, a specific stand was taken by the petitioner that the so called labourer was not a child labourer and he was above the age of 14 years.

In view of the facts and circumstances, the Court has left with no option but to quash the impugned order i.e. order contained in **Annexure - 1** to the writ petition. The impugned order is, hereby, set aside.

The writ petition stands allowed.

(Rakesh Kumar, J.)

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