

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6353 of 2014

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Satyendra Narayan Karna, son of Late Rama Ballabh Lal Das, resident of
Ganga Apartment, Old Bypass, Main Road, Kankerbagh, P.S. Kankerbagh,
Town and District-Patna

.... Petitioner

Versus

1. The Employees Provident Fund Organization through the Regional Provident Fund Commissioner, Regional Office, Bhavishyanidhi Bhawan, R-Block, Road No.6, Patna
2. The Recovery Officer, the Employees Provident Fund Organisation, Regional Office, Bhavishyanidhi Bhawan, R-Block, Road No.6, Patna
3. Rajesh Pandey, Recovery Officer-cum- Regional Provident Fund Commissioner-II, The Employees Provident Fund Organisation, Regional Office, Bhavishyanidhi Bhawan, R-Block, Road No.6, Patna
4. The Senior Superintendent of Police, Patna
5. The Officer In-charge, Kankerbagh Police Station, Town and District-Patna
6. The State of Bihar through the Principal Secretary, Department of Home, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar
Mr. Rajesh Ranjan
For the Respondent/s : Mr. AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 08-09-2015 Heard Sri Rajesh Ranjan, learned counsel for the petitioner, learned AC to AAG-11 and Sri Prashant Sinha, learned counsel for the Respondent/ Employees Provident Fund Organisation.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of Annexure-3 to the writ petition i.e. warrant of arrest endorsed to the officer Incharge of Kankerbagh Police Station, Patna for executing the same against the petitioner on the ground



of non-payment of certificate amount. It has also been prayed to declare that the petitioner is not liable to pay the amount i.e. Rs.10, 55, 134/- since the petitioner is not proprietor of M/S Ideal Children High School. It has been pleaded that the petitioner only after noticing information regarding issuance of warrant of arrest inquired and, thereafter, he came to know that a proceeding under Section 7A of the Employees Provident Funds and Miscellaneous Provision Act, 1952 was earlier initiated against M/S Ideal Children High School and order was passed holding the said school liable to pay an amount of Rs.6,53,115/-.

Learned counsel for the petitioner submits that though the petitioner was not having any connection with the said school, to the reasons best known to the authority concerned, the petitioner has been treated as proprietor of the said school and in the recovery proceeding, the petitioner was impleaded as party, that too, without any notice to him and warrant of arrest has been issued. He submits that in any event without any notice to the petitioner to justify that the petitioner is having any concern with the said school, the recovery authority i.e. Respondent no.3 has acted wrongly without any jurisdiction in issuance of warrant of arrest against the petitioner.

Sri Prashant Sinha, learned counsel for the



Respondent/ Employees Provident Fund Organisation, opposing the prayer of the petitioner, submits that the enforcement officer after the order passed under Section 7A of the Act contacted the principal of the school in question and during said enquiry, the name of the petitioner transpired as proprietor/owner of the school and, as such, rightly warrant of arrest has been issued. He has referred to statements made in paragraph-15 of the counter affidavit and submits that the petitioner deliberately has not impleaded the school in question as party Respondent. He further submits that the petitioner is unnecessarily claiming a mistaken of identity.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. It is true that the enforcement officer vide Annexure-A series , particularly running page-11 of the counter affidavit had noticed the name of the petitioner on examining the principal of the school in question, but fact remains that the petitioner was never noticed to explain. Directory, the .recovery officer after report of the enforcement officer has passed an order for issuance of warrant of arrest against the petitioner

The Court is of the considered opinion that in a proceeding, in which the petitioner was not a party, suddenly the

petitioner was not required to be dealt with by the Respondents, as has been done in the present writ petition. In any event without any notice to the petitioner to explain his identity in respect of the school, there was no requirement to take any action against the petitioner. Accordingly, Annexure-3 is hereby set aside and the writ petition stands allowed.

It goes without saying that Respondent no.3 would be at liberty to proceed with the case provided an appropriate enquiry is conducted, in which the petitioner should be given opportunity of proper hearing. In the event of such enquiry, the petitioner shall render full co-operation and assistance to the authority concerned.

(Rakesh Kumar, J)

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