

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6630 of 2013

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Umesh Kumar S/O Ganga Prashad, resident of High School Road, P.S.
Jhumritilaiya Dist- Kodarma State- Jharkhand

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Labour Department, Government of Bihar
3. Assistant Labour Commissioner, Dalmianagar, Rohtash
4. District Certificate Officer, Rohtash
5. Executive Engineer, Flood Control Division, Brahampur, Karagahar, Dist.- Rohtash
6. Director General of Police, Bihar
7. Superintendent of Police, Buxar
8. Officer in Charge P.S.- Brahampur, Dist.- Buxar
9. Manoj Kumar Singh M/S Sivam Planers Construction Pvt. Ltd., Anand Vihar, Bely Road, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Nikesh Kumar, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 20-07-2015 Heard learned counsel for the petitioner and Sri Nikesh Kumar, learned AC to SC-12.

The petitioner, invoking writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India, has prayed for directing the Respondents to pay the due amount of Rs.2,56,969/- on the basis of the order passed by the Assistant Labour Commissioner-cum-competent authority under the Minimum Wages Act.

It has been accepted by learned counsel for the



petitioner that the petitioner was employed by Respondent no.9, who was contractor under the control of Respondent no.5/Executive Engineer, Flood Control Division, Brahampur, Karhagar, District-Rohtas. It has also been accepted that after the order, a certificate proceeding was initiated and after initiation of certificate proceeding, payment has not been made. It has been indicated that warrant of arrest was also issued against Respondent nos. 5 and 9, but the same has not been executed till date.

In this case, a counter affidavit has been filed on behalf of Respondent nos. 7 and 8 i.e. Superintending of Police, Buxar and Officer Incharge of Brahampur Police Station, District-Buxar. In the counter affidavit, a specific stand has been taken that no summon or warrant has been received in the Police Station and, as such, there is no question of disobedience or disrespect of the certificate proceeding, which has taken place in the certificate case.

The Court is of the opinion that once the petitioner was employed with Respondent no.9 i.e. private person and the court below i.e. the labour court has already passed order in favour of the petitioner and, thereafter, a certificate proceeding was initiated, which is pending, this Court may not pass any positive order in favour of the petitioner.

The writ petition stands disposed of.

If so advised, the petitioner may pursue the proceeding
before the Certificate Officer.

(Rakesh Kumar, J)

NKS/-

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