

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16134 of 2012

M/s Annapurna Hotels, Civil Court Compound, P.S. - Pirbhore, District Patna
through its Manager Shri Parma Nand Mishra S/O Shri Awadh Narayan Mishra
Civil Court Compound, P.S. - Pirbhore, District Patna

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate-Cum-Collector, Patna
2. The Labour Enforcement Officer-Cum-Inspector, Patna
3. The Labour Superintendent, Patna
4. The Superintendent of Police, Patna
5. The Certificate Officer cum District Panchayat Raj Officer, Patna

.... Respondents

Appearance:

For the Petitioner : Mr. Gautam Kejriwal, Advocate
For the Respondents : Ms. Alka Verma, AC to SC 17

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 01-09-2016

Heard learned counsel for the petitioner and learned counsel
for the respondents.

2. The present writ petition has been filed for quashing of the
notice of demand dated 30.03.2012 issued in Certificate Case No. 482
of 2011-12 under Section 7 of the Bihar and Odisha Act No. 4 of 1994
by the respondent no. 5, i.e. Certificate Officer, Begusarai whereby the
petitioner has been directed to deposit a sum of Rs. 20,000/- to the
Child Labour Rehabilitation-cum-Welfare Fund for the welfare of one
Santosh Kumar Yadav under the provisions of the Child Labour
(Prohibition and Regulation) Act, 1986; for quashing of the entire
certificate proceedings initiated vide Certificate Case No. 482 of 2011-

12 at the instance of respondent no. 3 i.e. Labour Superintendent, Patna; and for connected reliefs.

3. Learned counsel for the petitioner makes a short submission in support of his contention that the certificate proceedings for recovery of Rs. 20,000/- by resort to the Bihar and Orissa Public Demands Recovery Act (for short "the PDR Act") is without jurisdiction inasmuch as the amount in question does not fall within the definition of "public demand" in terms of Section 3(6) thereof. It is submitted that the nature of the amount does not fall to be covered by any of the entries in Schedule I of the PDR Act and the petitioner has also not entered into any agreement with the respondents for recovery of the amount through certificate proceedings.

4. Separate counter affidavits have been filed on behalf of the State respondent nos. 1 and 5 as well as respondent nos. 2 and 3 and a supplementary counter affidavit on behalf of respondent nos. 1 to 5. Learned counsel for the respondents is unable to show from any of these that the Certificate Officer has the requisite jurisdiction to initiate certificate proceedings in terms of the PDR Act. It is however pointed out that the petitioner has preferred an objection petition under Section 9 of the PDR Act, which is pending before the Certificate Officer.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. The petitioner has raised a specific plea that the amount in question sought

to be recovered by recourse to the PDR Act is unauthorized and does not fall within the purview of “public demand” and cannot thus be recovered under the provisions thereof. This fundamental aspect of the matter has not been controverted in any of the counter affidavits filed by the respondents. It is thus evident that there was inherent lack of jurisdiction in proceeding for recovery of the amount of Rs. 20,000/- by resort to the PDR Act, and the impugned action cannot be sustained. The mere fact that an objection petition has been filed under Section 9 of the PDR Act by the petitioner would make little difference if the very assumption of jurisdiction by the Certificate Officer was unsustainable in law.

6. The writ petition accordingly stands allowed.

(Vikash Jain, J)

Chandran/lbrar

AFR/NAFR	AFR
CAV DATE	N.A.
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