

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6454 of 2015

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1. Pravin Kumar Pandey son of late Ram Narayan Pandey the resident of village - Salempur, P.S. - Amarpur, Distt - Bhagalpur presently post as Agriculture Co-coordinator, Shambhuganj, Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Banka.
3. The Bihar State Food and Civil Supply Cooperation through its Managing Director, Sone Bhawan, Veerchand Patel Path, Patna.
4. District Manager, Bihar State Food and Civil Supplies Corporation Limited, Banka.
5. The Certificate Officer cum Senior Deputy Collector, Banka.
6. The District Animal Husbandry Officer, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Adv.
For the Respondent/s : Mr. Mithilesh Kumar Pathak, SC 7
For the Corporation : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-05-2016

Heard Mr. Swapnil Kumar Singh, learned counsel for the petitioner, Mr. Mithilesh Kumar Pathak, S.C.7 for the State and Mr. Shailendra Kumar Singh learned counsel for the Corporation.

With the consent of the parties the matter has been taken up for final disposal at the stage of admission itself.

In the nature of the order which this Court proposes to pass, it would not be required to discuss on the contest. Briefly stating, the petitioner has filed this writ petition being aggrieved by initiation of certificate proceedings bearing Certificate Case No. 54 of 2014-15 at the instance of the District Manager of the Corporation for recovery of amount of Rs. 96,63,130/- stated to be the outstandings against the petitioner who happens to be the Centre Incharge of the Corporation.

The pleadings on record manifests that responding to the notice under Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as 'the Act') present at page 20 of the writ petition, the petitioner has filed his objection under Section 9 of 'the Act' which is available at page 21 of the writ petition and forms part of Annexure-4 series. It is the case of the petitioner that even when the matter remained pending for hearing on the objection filed by the petitioner under Section 9 of 'the Act' that the District Certificate Officer, Banka has issued bailable warrant against the petitioner on 26.2.2016 and by the same order has directed him to deposit the certificate amount.

Although Mr. Shailendra Kumar Singh appearing for the Certificate Holder and Mr. Pathak learned State counsel have tried to take refuge under the order dated 23.12.2014 to submit that the certificate case stands finally disposed of but in my opinion, the order passed on 23.12.2014 does not satisfy the requirements present in Section 10 of 'the Act' which mandates the Certificate Officer to:

- (a) Considering the objection so filed by the certificate debtor;
- (b) Take evidence on the contest;
- (c) Adjudicate thereupon on the basis of the stand taken by the contesting parties; and
- (d) Dispose of the matter by a speaking order.

This mandatory requirement is missing in the present case and in absence whereof, the order passed on 26.2.2015 requiring the

petitioner to deposit the certificate amount as well as the issuance of bailable warrant is without legal sanction.

In the circumstances discussed, the order dated 26.2.2016 passed by the District Certificate Officer, Banka is quashed and set aside. The Certificate Case is remitted to the District Certificate Officer, Banka for consideration of the matter and its disposal afresh and strictly in accordance with the provisions underlying Section 10 of 'the Act'. Since the objection is already filed by the Certificate Debtor hence this Court would direct the parties to be present before the District Certificate Officer, Banka on 23.5.2016 at 11 A.M. and whereafter the District Certificate Officer, Banka would proceed to dispose of the matter in accordance with law. It is made clear that if the petitioner fails to present himself on 23.11.2016, then the Certificate Officer would be at liberty to dispose of the matter ex parte while taking note of the objections so filed and present on the record of the proceedings.

The petitioner shall be at liberty to raise all issues as raised in this writ petition as well as in the objection petition, during the course of hearing and disposal of the objection petition.

The writ petition is allowed. The interlocutory application stands disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.05.2016
Transmission Date	