

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10495 of 2012

=====

Ram Narayan Singh @ Narayan Yadav S/O Sri Mala Singh R/O Village - Jinauriga,
P.O. - Siyanwak, P.S.- Rajpur, District - Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Mines, Government of Bihar, Patna
3. The Assistant Director, Mines, Rohtas, Sasaram
4. The Circle Officer, Rajpur, Rohtas
5. The Certificate Officer (Mines) cum Deputy Director, Mines, Patna Circle, Patna

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey
For the Respondent/s : Mr. V.M.K Sinha AAG13

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-06-2016

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

2. This writ petition has been filed for quashing the
entire certificate proceeding initiated against the petitioner in
Certificate Case No.29 of 2008-09 and for connected reliefs.

3. The immediate concern of petitioner in this case is
that a warrant of arrest has been issued against him in connection with
the dues amounting to Rs.61,740/- recoverable in terms of the notice
dated 14.03.2012 issued by the Certificate Officer (Mines) cum
Deputy Director, Mines, Patna Circle, Patna in Certificate Case No.29
of 2008-09.



4. It is submitted on behalf of the petitioner that the certificate proceeding is wholly illegal and unsustainable in law. It is stated that the mandatory notice under Section 7 of the Bihar & Orissa Public Demands Recovery act (for short, “the PDR Act”) has not been served upon the petitioner. It is, therefore, submitted that in absence of such notice, the certificate case itself is invalid and cannot be sustained in law.

5. A counter affidavit has been filed on behalf of the respondents wherein specific plea of the petitioner in paragraph-9 of the writ petition with regard to non-service of the mandatory notice under Section 7 of the PDR Act has, however, not been controverted.

6. In the above view of the matter, this Court finds merit in the writ petition. In absence of a valid notice under Section 7 of the PDR Act having been served on the petitioner, the certificate case against the petitioner for recovery of dues is un-sustainable in law and cannot continue. The entire certificate proceeding in Certificate Case No.29 of 2008-09 is accordingly quashed. The Certificate Officer shall, however, be at liberty to initiate a fresh certificate proceeding against the petitioner for recovery of any outstanding dues against the petitioner after duly serving a notice under Section 7 of the PDR Act and proceed thereafter in accordance with law.

7. It is made clear that in the meantime, the Certificate Officer shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No.29 of 2008-09.

8. The writ petition stands disposed of.

(Vikash Jain, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.07.2016
Transmission Date	N/A