

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14192 of 2012

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Rajeev Kumar S/O Ashok Prasad Gupta, resident of Nauranga, Main Road, P.S. -
Town, Distt. Begusarai.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Priya Gupta, Adv.

For the Respondent/s : Mr. Neeraj Nandan, GP-20

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-08-2016

The present writ petition has been filed for quashing of the notice of demand issued vide memo no. 143 dated 27.06.2012 by the respondent Certificate Officer, Begusarai upon a requisition dated 21.03.2012 filed by the Labour Superintendent, Begusarai; and for quashing the certificate proceedings of certificate case No. 29/2012-13 initiated for recovery of a fine of Rs. 20,000/- consequent upon the said requisition dated 21.03.2012 of the Labour Superintendent, Begusarai.

2. Learned counsel for the petitioner, Mr. Gautam Kejriwal, submits that the action of the Labour Superintendent, Begusarai (respondent No. 3) in issuing the requisition for a certificate is wholly arbitrary and violative of the order of this Court dated 20.03.2012 passed in C.W.J.C. No. 5143 of 2012, whereby this Court had directed the Labour Inspector to conduct an enquiry and dispose of the matter with regard to the child, Deepak Kumar, said to have been working in



the petitioner's sweet meat shop, and in the meantime the order of imposition of fine of Rs. 20,000/- was stayed. Such order was passed in the presence of State counsel and thus the respondent no. 3 has clearly acted in violation of this Court's order by issuing a requisition for a certificate for recovery of the fine in question the very next day on 21.03.2012. It has further been stated that neither any proper enquiry has been made nor the matter disposed of as required to be done in terms of the order of this Court. Without therefore determining the fundamental question with regard to the liability of the petitioner, the respondents have proceeded to recover the fine through initiation of certificate proceedings despite the fact that the order imposing the fine had been stayed by this Court.

3. Learned counsel for the respondents appears and relies on the counter affidavit to state that in pursuance of the order of this Court, hectic search was made by the Labour Enforcement Officer but the child or his guardian/parents could not be found.

4. Having heard the parties and on careful consideration of the materials on record, this Court finds merit in the writ petition. The fact that the respondent no. 3 issued a requisition dated 21.03.2012 for issuance of certificate by the Certificate Officer, Begusarai (respondent No. 5) just the day following the order dated 20.03.2012 (Annexure-3) passed by this Court granting stay of the order imposing fine pending enquiry and disposal of the matter, has not been denied. Such action on the part of the respondent no. 3 was thus clearly contrary to the directions of this Court. Considering the undisputed stand of the

petitioner that no proper enquiry has been made as the child in question could not be traced and the matter therefore has not been disposed of by the respondents, the fixation of liability itself remains undetermined. In such circumstances, there can be no occasion for recovery of the fine from the petitioner, much less through the impugned certificate proceedings.

5. In that view of the matter, the notice of demand vide memo no. 143 dated 27.06.2012 (Annexure-7 Series) issued by the Certificate Officer, Begusarai (respondent No. 5) is hereby quashed and so also the entire certificate proceedings in Certificate Case No. 29/2012-13 are set aside.

6. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	17.08.2016
Transmission Date	N.A.