

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1232 of 2017
Arising out of
C.W.J.C. No. 9878 of 2017

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Ishwar Chand Prasad, Son of Mahabir Prasad, resident of Village- Pidari,
P.S.- Maintard, District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through the District Magistrate, Bettiah, West Champaran.
2. The District Magistrate Cum Collector, Bettiah, West Champaran.
3. The District Certificate Officer, Bettiah, West Champaran.
4. The Branch Manager, of State Bank of India, Krishi Vikash Shakha, Bettiah, West Champaran.
5. The Principal Secretary, General Administration, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shashi Bhushan Kumar, Advocate
For the S.B.I.	:	Mr. Satya Prakash Tripathy, Advocate
		Mr. Satya Vrat, Advocate
For the State	:	Mr. S.K. Sharma, A.C. to AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date : 06-09-2017

Defects pointed out by the office be removed

during the course of the day.

Having heard learned counsel for the parties, we

find that on 09.08.2017 in C.W.J.C. No. 9878 of 2017 with

regard to taking coercive action against the petitioner for

recovery of Rs. 2,20,000/- in pursuance to the order passed by

the Certifying Officer directing for recovery of certain amount

the learned Writ Court passed the following directions:-

“Looking to the entire facts and



circumstances of the case, the order dated 10.04.2017 is set aside and the petitioner is directed to appear before the authority on 4th of September, 2017 along with a copy of this order and the Certificate Officer, Bettiah, West Champaran will be obliged to examine the objections raised by the petitioner and, after giving an opportunity of hearing to the petitioner, will take a decision in accordance with law.

The petitioner will not be arrested till 4th of September, 2017.

With the aforementioned observation and direction, this application is disposed of.”

As far as remand of the matter to the Certifying Officer with a direction to examine the objections raised by the petitioner after granting him opportunity of hearing is concerned, we see no reason to make any indulgence into the matter. However, once the matter was remanded back to the Certifying Officer, the order of arresting the petitioner should have also been quashed and the question of taking coercive action by arrest of the petitioner should have been left open to be decided after the proceedings are finalized by the Certifying Officer. This having not been done, we allow this appeal in part and modify the order passed by the learned Writ Court to the following effect:-

The matter stands remanded back to the Certifying Officer, Bettiah, West Champaran, as already directed by the



learned Writ Court. The said officer shall examine the objection of the petitioner and proceed to decide the matter as already been directed by the learned Writ Court. However, till the matter is not decided by the learned Writ Court and for a further period of 30 days thereafter, to enable the petitioner to file an appeal, no coercive steps like arrest of the petitioner shall be taken. Needless to emphasize that in case the order passed by the Certifying Officer is in favour of the petitioner, no further coercive action need be taken in the matter.

With the aforesaid, the Letters Patent Appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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