

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8411 of 2013

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Dilip Kumar Singh, Son of Sri Tanik Singh, Resident of Mohalla - Garhpar, Town/
P.O. / P.S. - Biharsharif, Distt. - Nalanda

.... Petitioner

Versus

1. The State Of Bihar Through The Secretary, Excise Department, Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. The Divisional Commissioner, Patna Division, Patna
4. The Collector-Cum-District Magistrate, Nalanda
5. The Excise Superintendent , Nalanda At Biharsharif

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Sidhendra Nr. Singh, Adv.

For the Respondent/s : Mr. Anshuman Singh, A.C. to P.A.A.G.-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-01-2017

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

2. In this case, the petitioner is challenging the initiation
of Certificate Case No.05/2003-04 on the ground that the demanded
amount itself is not recoverable on account of delay and latches as
the shop itself was not opened, so the question of recovery of
demanded amount does not arise.

3. The petitioner further submits that he was not served
the notice as per under Section 7 of the Public Demand Recovery
Act.



4. So far as the notice is concerned, it is mandatory requirement by the Certificate Officer to serve the notice upon the petitioner under Section 7 of the Public Demand Recovery Act and if no notice is served then the entire proceeding vitiates.

5. In such view of the matter, let the Certificate Officer serve the proper notice upon the petitioner. So far as, the question of demanded amount is recoverable under the Public Demand Recovery Act will be seen by the Certificate Officer, if any objection is filed by the petitioner under Section 9 of the Public Demand Recovery Act that should be gone into properly and giving proper hearing. The Certificate Officer would dispose of his objection in accordance with law.

6. The distress warrant issued against the petitioner is quashed.

7. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	20.01.2017
Transmission Date	

