IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 11790 of 2014

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Ranjeet Kumar Singh, Son of Vishwannath Singh, resident of village and P.O. Manihari, P.S. Manihari, District – Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Katihar.
3. The S.D.O., Manihari, District – Katihar.
4. The Circle Officer, Manihari, District – Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bipin Bihari Singh, Advocate
For the State	:	Mr. Md. Obaidullah, A.C. to S.C. 10

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 12-01-2017

Heard learned counsel for the parties.

The petitioner has moved this Court against the order dated 12.01.2012 passed by the Collector, Katihar in Misc. Case No. 57 of 2011-12, by which his representation for refund of Rs. 7,17,500/-, has been rejected.

The petitioner was the successful bidder for settlement of 16 Ghats in Manihari in the District of Katihar and accordingly, was issued requisite permission on 31.02.2005 by the Circle Officer, Manihari. The period of settlement was 01.04.2005 to 31.03.2006. Out of the total consideration amount of Rs. 14,35,000/-, the petitioner deposited half the amount and the rest was to be deposited by September, 2005. In the meantime, the petitioner alleging that he had been restrained from collecting the tax on one of the Ghats, moved this Court seeking refund of the amount deposited by him in C.W.J.C. No. 11908 of 2005, which was disposed off by order dated 27.10.2010, directing the petitioner to appear before the Collector, Katihar, who was required to pass an appropriate order after examining the documents. Pursuant to the same, the Collector has passed the impugned order rejecting the claim for refund and has directed for recovery of the remaining amount.

Learned counsel for the petitioner submitted that earlier when the Court had directed the Collector, Katihar to consider for refund, he could not have gone the issue of there being any remaining dues and thus, the impugned order needs to be set aside. He further submitted that before the Court in the earlier writ petition, the State had not taken any objection that the petitioner had to pay any further amount and thus, the order impugned directing for recovery of the remaining amount cannot be sustained. Learned counsel submitted that the settlement in favour of the petitioner was cancelled and, thus, he was not able to clear the revenue from the said Ghat and he is entitled to refund of the amount already deposited by him.

Learned counsel for the State, relying on the averments made in the counter affidavit, submitted that the prayer of the petitioner is misconceived. It was submitted that from the list of 16 Ghats settled in favour of the petitioner, it is clear that the settlement for none of the said Ghats was ever cancelled. Further, he submitted that as far as the one Ghat is concerned, the same was never settled with the petitioner and was in fact settled with one Madhav Kumar Mishra and the petitioner was only directed not to illegally collect any fee from the Ghat which was settled to the other person. Learned counsel submitted that the State has in fact, filed Certificate Case No. 3 of 2006 for recovery of Rs. 6,06,750/-, against the petitioner.

Having considered the matter, the Court does not find any merit in the present writ application. The plea of learned counsel for the petitioner that the court earlier in C.W.J.C. No. 11908 of 2005 had directed the Collector, Katihar to consider the issue of refund, which shall preclude him from going into any other aspect of the matter, cannot be accepted. The matter relates to settlement of Ghats and the amount for which it was settled and whatever may have been paid by the petitioner is necessarily a part and parcel of the same transaction, and had to be gone into by the Collector, Katihar while deciding the plea of refund of the petitioner. From what has been brought on record in the counter affidavit and more importantly what has been stated in the impugned order itself, the settlement of the petitioner for 16 Ghats in question was never interfered with during the entire period of settlement and thus, the petitioner later on claiming refund does not seem to have any valid ground to do the same. Moreover, out of the 16 Ghats, if it is taken that on one of the Ghats the petitioner was restrained from collecting any fee, the position still remains that on 15 Ghats, there was no disturbance either in the possession by the petitioner or from him collecting any fee. It would be useful to note that in the order of settlement itself dated 31.03.2005, at the very beginning it is written that the loaded trucks would not be subject to any levy of fee by the petitioner and that is exactly what has been done by the later order which has only clarified that on the Ghat settled to Madhav Kumar Mishra, the petitioner was collecting fee from the vehicles which were coming on the ferry, which was impermissible.

The Court, thus, finds that there is nothing on record even to indicate that there was any let or hindrance, much less, any cancellation with regard to the settlement of the 16 Ghats in question with the petitioner for the period in question.

The petitioner having taken the benefit of the settlement for the entire period cannot now turn back and ask for refund of the amount deposited by him, which was only half of the total amount, and the authorities rejecting the claim for such refund as well as directing for steps to be taken for recovery of the remaining amount cannot be faulted.

Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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