

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11397 of 2016

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Bikash Kumar, Son of Hari Krishna Prasad Resident of Village- Ander, Police
Station- Ander, District Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The District Certificate Officer, Siwan.
4. The Superintendent of Excise Department Siwan.
5. The District Treasury Officer, Siwan.
6. The S.H.O. Ander Police Station District Siwan.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, 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: 06-03-2017

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

2. In this case, the petitioner is challenging the order of
warrant of arrest dated 20.05.2016 passed in Certificate Case No.7
of 2014-15.

3. The short facts of this case are that the petitioner was
given licence of a wine shop for the year 2014-15. The petitioner
has deposited Rs.4,75,799/- as Security Deposit. The petitioner has



not paid the licence fee of Rs.4,26,120/-, for that, a certificate proceeding has been initiated.

4. Learned counsel for the petitioner submits that the Security Deposit requires an adjustment against the outstanding dues, but without making any adjustment straightway the case has been instituted for recovery of the aforesaid amount.

5. It appears that the petitioner has filed Objection under Section 9 of the Act, which is pending before the Certificate Officer, but without disposing of the said objection raised by the petitioner the Certificate Officer issued order of warrant of arrest dated 20.5.2016. The Certificate Officer without disposing of the objection could not have taken coercive measure.

6. In such view of the matter, the order of warrant of arrest dated 20.05.2016 is quashed and set aside. The Certificate Officer is directed to first consider the objection of the petitioner and dispose of the same by a reasoned order in accordance with law after giving proper opportunity and only then take decision for coercive action. While deciding the objection, the Certificate Officer will consider the contents of the objection filed by the petitioner.



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	07.03.2017
Transmission Date	N/A.

