

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9998 of 2017

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Suresh Rai Son of Mukhlal Rai Resident of Village- Telia, Police Station-
Basantpur, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government 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. Lakari Navinganj Police Station, District- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Adv.

For the Respondent/s : Mr. Vivek Prasad-GP7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-09-2017

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

In this case, the petitioner is facing a certificate
proceeding being Certificate Case No. 6 of 2014-15 for realization of
amount of Rs. 7,34,740/-.

The petitioner was allotted group of wine shop of the
area Jamo Bazar for the 2013-14, every month, the petitioner
deposited the amount of Rs. 7,34,740/- but in the last month, he could
not deposit the same and, on that account, for realization of the said
amount, a proceeding has been initiated.

The petitioner, in the writ application, has submitted
that he has filed objection, there he has taken a plea that already the



amount of security of Rs. 8,23,310/- is lying with the authority and the said due amount should be adjusted.

A plea has been taken by the State that the petitioner has not deposited the fee in time, on that account, the authority has forfeited the security amount which has not been challenged in this proceeding, only the grievance has been raised that the petitioner has filed objection, elaborated his defence which has not been gone into, instead of the same, the authority has passed the order dehors to the settled position that before taking any coercive measure, the authority, at least, must dispose of the objection filed under Section 9 of the Bihar and Orissa Public Demand Recovery Act.

In that view of the mater, the order of arrest of warrant dated 22.10.2016 is set aside with a direction to the authority to decide the objection filed by the petitioner and give date for deposit of the due amount, if he fails to deposit the same, in such circumstances, the authority can take coercive action against the petitioner and not before that.

This application is, accordingly, allowed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.09.2017
Transmission Date	NA

