

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12311 of 2017

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Shiv Narayan Baitha S/o Late Chandrawali Baitha, resident of Village - Banjari
Brahmsthan, P.S. - Gopalganj, District - Gopalganj at present posted as Clerk
Office of the District Education Officer, Saran at Chapra.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Election Officer-cum-District Magistrate, Gopalganj.
3. The District Programme Officer (Education) Establishment, Gopalganj.
4. The District Education Officer, Gopalganj.
5. The Sub-Divisional Officer-cum-Certificate Officer, Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gajendra Kumar Singh,

For the Respondents : Mr. Prabhakar Jha, GP27

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-11-2017

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. The present writ petition has been filed for the following
reliefs –

“(a) For quashing of entire certificate proceeding started in
Case No. 01/2017-18 and the notice dated 27.06.2017
issued under section 7 of the Bihar and Orissa Public
Demand Recovery Act.

“(b) For a direction to the District Certificate Officer,
Gopalganj not to take any coercive step against the
petitioner during pendency of this writ application.

(c) For any other relief”.



3. Learned counsel for the petitioner submits that the entire certificate proceeding is wholly illegal and without authority of law as a defective requisition has been issued without payment of court fee and with a number of blanks, such as the verification and certification of the amount. So also in the certificate issued in Form No. 1, Certificate Officer has not recorded his satisfaction with respect to the amount outstanding from the petitioner. Reliance is placed on the decisions of this Court rendered in *Hari Prasad Agrawal Vs State of Bihar reported in 1975 BBCJ 723* and also in *M/s Vishnu Sugar Mills Ltd. Vs. The State of Bihar & others reported in 2015(1) PLJR 863* wherein the entire proceeding is held to be without jurisdiction for want of proper requisition and certificate.

4. Learned counsel for the respondents appears and has been heard.

5. In view of the defects in the requisition and the certificate as pointed out by the petitioner and in respect of which objection was also taken before the Certificate Officer, this Court is of the view that the entire certificate proceeding in Certificate Case No. 01/2017-18 has not been validly initiated and the same is accordingly set aside, with liberty to the respondent–Corporation to take fresh steps for recovery of the outstanding dues, if so advised, in accordance with law.

6. The writ petition stands allowed as above.

(Vikash Jain, J)



B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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