

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13981 of 2018

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Shaligram Dubey, S/o Late Shiv Harak Nath Dubey, Proprietor & Owner of
M/S Pal Hotel, Station Road, Gaya, Police Station-Kotwali, District, District-
Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Labour Resources
Department, Government of Bihar, Niyogan Bhawan, Bailey Road, Patna.
2. The District Certificate Officer, Gaya.
3. The Deputy Labour Commissioner, Gaya.
4. The Sub-Divisional Magistrate, Cum Certificate Officer, Gaya.
5. Bijay Choudhary, Son of Bankim Choudhary, Resident of Chhotaki Delha,
P.S.-Delha Gaya District-Gaya.
6. The Labour Commissioner, Labour Resource Department, Government of
Bihar, Niyogan Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Pandey, Advocate
For the Respondent/s : Mr. Chitranjan Sinha- PAAG2

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 27-07-2018 Heard learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

Petitioner seeks quashing of the entire certificate
proceeding being District Certificate Case No. 07 of 2015-16
including the order dated 17.08.2017 and also seeks quashing of
the order dated 14.05.2018 by which warrant of arrest has been
issued against the petitioner.

Learned counsel for the petitioner has challenged the
very certificate, as contained in Annexure P-2 issued on the
basis of the application, which is defective and it has been
brought to this Court's notice that the format in Form-1 has not



been filled in a proper manner. Hence, the defective endorsement in the form would itself vitiate the entire certificate proceedings. He brings to the notice that the certificate has been signed by the Deputy Labour Commissioner who ought not to have signed on the format, Form- 1 and thus the order passed in certificate proceedings when the certificate itself is not sustainable being defective, the entire proceedings arising thereto are illegal and vitiated void ab initio as held in the case of M/s Vishnu Sugar Mills Limited and Others Versus The State of Bihar and Others since reported in 2015 (1) PLJR-863 and relied in the case of Badri Prasad Gupta Versus The State of Bihar and Others, 2018 (3) PLJR 218.

Learned counsel for the State, however, submits that the petitioner was a proprietor of one M/s Pal Hotel, Station Road Gaya and was proceeded for non-payment of the wages as well as certificate case was filed for non-payment of minimum wages to its employees by the Deputy Labour Commissioner which was MW Case No. 84 of 2003. Hence the certificate case has been filed being certificate case No, 07 of 2015-16 as large dues has not been paid by the petitioner to its employees under the Minimum Wages Act.

However, considering the aforesaid, matter is no



longer res integra as defective certificate would make the entire certificate proceeding illegal, unsustainable and void ab initio.

Accordingly, the entire certificate proceedings being District Certificate Case No. 07 of 2015-16 including the order dated 17.08.2017 and also order dated 14.05.2018 by which warrant of arrest has been issued against the petitioner are set aside.

The Respondents especially Respondent No. 3 is at liberty to draw a fresh certificate case in the proper performa and proceed with the case in accordance with law.

(Nilu Agrawal, J)

Arjun/Pragya

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