

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3471 of 2018

=====

Uday Shankar Singh, Son of Sri Ram Kunwar Singh, Resident of Village-
Bishrampur, P.O.- Khudia, P.S.- Shivsagar, District- Rohtas.

.... Petitioner

Versus

1. The State of Bihar, through its Chief Secretary, Patna.
2. The Transport Secretary, Patna.
3. Joint Commissioner-cum-Regional Transport Secretary-cum-Certificate Officer, Patna-1.
4. The Certificate Officer, Sasaram, District- Rohtas.
5. The District Transport Officer, Rohtas.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Amit Kumar Singh

For the Respondents : Mr. Raghwendra Kumar, SC22

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-03-2018

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

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

*“(I) To quash the order dated 14.12.2017 passed in
Certificate Case No. 15/2015-16 by which the Joint
Commissioner, Regional Transport Authority, South Bihar,
Patna-cum-Certificate officer, Patna Division, Patna
(hereinafter referred to as “the Certificate Officer”) without
deciding petitioner’s objection petition filed under Section 9
of the Bihar and Orissa Public Demand Recovery Act, 1914
(hereinafter referred as the Act) and without affording
statutory right of hearing to the petitioner has issued
direction for issuance of Distress Warrant (D.W.) against*



the petitioner.

(II) To quash the warrant of attachment of movable property dated 14.12.2017 by which the Certificate Officer without deciding petitioner's objection under Section 9 of the Act and without affording statutory right of hearing to the petitioner has authorized the district Transport Officer, Sasaram, Rohtash for attachment of petitioner's movable property towards recovery of certificate money.

(III) To hold and declare that the entire proceeding arising out of Certificate Case No. 15/2015-16 is void and not maintainable in the eye of law in as much as the requisition of certificate dated 25.08.2012 and Certificate filed under Section 6 of the Act being foundation of Certificate Case No. 15/2015-16 are deficient and vague in material statutory particulars. The above note requisition and certificate were illegally and arbitrarily issued without following the mandatory provisions of the Act.

(IV) For issuance of any other appropriate writ/order/direction to which the petitioner is found entitled in the eye of law."

3. It is submitted on behalf of the petitioner that the entire proceedings in Certificate Case No. 15/2015-16 against the petitioner in terms of Section 7 of the Bihar & Orissa Public Demands Recovery Act (For short, "the Act") for recovery of the dues amounting to Rs.5,33,904/- are wholly illegal and liable to be quashed.

4. The immediate concern of the petitioner in this case is that a Distress Warrant as well as Warrant of Attachment have been



issued against him in connection with the dues amounting to Rs. 5,33,904/- recoverable in terms of the notice dated 14.10.2015 issued by the Joint Commissioner, Regional Transport Authority, South Bihar, Patna-cum-Certificate Officer, Patna Division, Patna in Certificate Case No. 15/2015-16.

5. Learned counsel for the respondent-Corporation submits that the petitioner does not appear to have filed any petition under Section 9 of the Act denying his liability, and as such there is no illegality in the action of the Respondents.

6. Be that as it may, with the consent of parties, the present writ petition is disposed of granting liberty to the petitioner to file his petition under Section 9 of the Act within a period of three weeks from today, which, if done, shall be disposed of by the Certificate Officer on its own merits within a further period of four weeks thereafter in accordance with law and in terms of Section 10 of the said Act.

7. It is made clear that until disposal of such petition, if filed, the Joint Commissioner, Regional Transport Authority, South Bihar, Patna-cum-Certificate Officer, Patna Division, Patna shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 15/2015-16.

8. The writ petition stands disposed of.

(Vikash Jain, J)



Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.04.2018
Transmission Date	N.A.

