

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.632 of 2017

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Baldev Mahto, son of late Bunni Lal Mahto, resident of Village - Nabalpur, P.S. -
Daraunda, District - Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Superintendent, Department of Excise, Siwan.
3. The Certificate Officer, Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Angad Kunwar, Advocate

For the Respondents : Mr. Prabhat Kr. Singh, AC to AG

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-05-2018

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

2. The present writ petition has been filed for quashing the entire proceeding including the notice dated 16.03.2016 issued by respondent No. 3 in Certificate Case No. 15 of 2012-13 as contained in Annexure-1 by which the respondent No. 3 has directed the petitioner to deposit Rs. 4,60,000/- and further for quashing the order dated 15.11.2016 as contained in Annexure-3 by which the warrant of arrest has been issued against the petitioner.

3. It is submitted on behalf of the petitioner that the entire proceedings in Certificate Case No. 15 of 2012-13 against the petitioner in terms of the notice under Section 7 of the Bihar & Orissa Public Demand recovery Act (for short, "the Act") for recovery of the dues amounting to Rs. 4,60,000/- are wholly illegal and liable to be quashed.



4. The immediate concern of the petitioner in this case is that a warrant of arrest has been issued against him in connection with the dues amounting to Rs. 4,60,000/- recoverable in terms of the notice dated 16.03.2016 issued by the District Certificate Officer, Siwan in Certificate Case No. 15 of 2012-13.

5. Learned counsel for the respondents 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. 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 Certificate Officer, Siwan (Respondent no. 3), shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 15 of 2012-13.

B.T/-

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
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