

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17907 of 2013

=====

Rajiv Kumar Son of Sri Ishwar Chandra Singh Resident of Village- Gahai, P.S.-
Dhaka, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar through Excise Department, Patna,
2. The District Certificate Officer, East Champaran, Motihari
3. The Excise Superintendent, East Champaran, Motihari

.... Respondent/s

=====

Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. LALIT KISHORE (AAG)

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-08-2018

The present writ petition has been filed for the following reliefs —

- (i) *For quashing the letter No. 449/U dated 04.06.2011 of the Excise Superintendent, East Champaran, Motihari whereby the District Certificate Officer, East Champaran, Motihari was requested to initiate Certificate proceeding against the petitioner for recovery of Rs.3,18,272/-.*
- (ii) *For quashing the entire certificate proceeding of Certificate Case No. 1/Utpad/2011-12.*
- (iii) *For a direction to the respondent no. 3 to return Rs. 2,98,380/- deposited by the petitioner on his declaration of winner in Excise Shop Group No. 28 in lottery of the year 2011-12 since he could not deposit the licence fee and he was not given licence for running*



the shop.

2. Learned counsel for the petitioner submits, *inter alia*, that the impugned action of the Certificate Officer is wholly without jurisdiction inasmuch as, no notice under Section 7 of the Bihar and Orissa Public Demands Recovery Act (for short 'the PDR Act') was served on the petitioner. A specific stand in this regard has been taken in para 7 of the writ petition.

3. Learned counsel for the respondents on the other hand invites reference to para 10 of the counter affidavit controverting the averments of the petitioner. It is stated that the notice under Section 7 of the PDR Act was duly served on 06.06.2011, but the matter was not pursued by him. A copy of the notice has also been enclosed as Annexure-E to the counter affidavit.

4. Having regard to the stand of the respondents, which has not been responded to and no rejoinder has been filed on behalf of the petitioner, this Court is not inclined to enter into the merits of the contentions of the petitioner. The ends of justice will be met if the petitioner is granted liberty to approach the Certificate Officer, East Champaran, Motihari (respondent no.2) with an objection petition under Section 9 of the PDR Act. If any such petition is filed within a period of 30 days, the same shall be disposed of by the Certificate



Officer, if still pending, on its own merits within a further period of four weeks thereafter in accordance with law and in terms of Section 10 of the PDR Act.

5. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2018
Transmission Date	NA

