IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24018 of 2013

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Mahesh Rai son of Late Mnohar Rai, resident of Village- Param Jiber, P.S.- Hathauri, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Commissioner of Commercial Taxes, Bihar, Patna
3. The Deputy Commissioner Commercial Taxes, Muzaffarpur Circle, Muzaffarpur
4. Certificate Officer Cum Deputy Director, Muzaffarpur Circle, Muzaffarpur
5. Assistant Mining Officer, Muzaffarpur
6. Circle Officer, Aurai, District- Muzaffarpur
7. The Certificate Officer, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Jitendra Kumar Giri, Advocate.

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-08-2018

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

> *"(A) For issuance of writ in the nature of Certiorari for quashing the order passed by Commissioner of Commercial Taxes, Bihar, Patna dated 15.03.2003, whereby and whereunder on the basis of ex-parte order which was passed by respondent no. 3 has dismissed the revision case which was filed by the petitioner and for the quashment of the order dated 31.12.2012 passed by the Certificate Officer, Muzaffarpur in relation to the certificate case no. 119 of 2001-2002 wherein the bailable warrant has been issued against the petitioner.*
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> *(B) For issuance of writ of Mandamus directing the*

respondent to pay the all recovered amount from the petitioner which was forcibly recovered by the petitioner without any valid reasons.

(C) For issuance of any other writ, rule or Order as may be deemed fit and proper in the facts and circumstances of the case."

2. Learned counsel for the petitioner invites reference to an earlier order of this Court dated 18.07.2005 passed in C.W.J.C. No. 2388 of 2004 (Mahesh Rai Vs. State and Ors.) by which the writ petition was permitted to be withdrawn with liberty to the petitioner to file a revision before the Commercial Taxes Tribunal. It is stated however that despite such liberty revision could not be filed before the Commercial Taxes Tribunal. It is stated that Certificate Case No. 119 of 2001-2002 is going on in which bailable warrant has been issued against the petitioner.

3. None appears on behalf of the respondents when the matter is called.

4. Considering that the order dated 15.03.2003 passed by the Commissioner, Commercial Taxes was already challenged before this Court in aforesaid C.W.J.C. No. 2388 of 2004 which writ petition was however withdrawn, the prayer in this regard is not maintainable and is dismissed as such.

5. As regards the prayer for quashing of the order dated 31.12.2012 passed by the Certificate Officer, Muzaffarpur, it is stated on behalf of the petitioner that objection petition under Section

9 of the PDR Act has not been filed before the Certificate Officer.

6. In the above view of the matter and in the ends of justice, the writ petition is disposed of granting liberty to the petitioner to file his petition under Section 9 of the PDR 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, Muzaffarpur shall refrain from resorting to any coercive action against the petitioner in Certificate Case No. 119 of 2001-2002.

8. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.09.2018
Transmission Date	N.A.