

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10860 of 2018

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Shamshir Ahmad, Son of Late Hasir Ahmad, Resident of Mohalla- Purana Quilla, P.S.- Town Siwan, P.O. & District- Siwan.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Dept. of Home & Personal, Govt. of Bihar, Patna.
3. The District Magistrate cum Collector, Siwan.
4. The Deputy Collector, Nazarat Siwan.
5. The District Commandant, Bihar Home Guard, Siwan.
6. The District Panchayat Officer, Siwan.
7. The Superintendent of Police, Siwan.
8. The District Certificate Officer, Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ravi Bhushan Verma, Advocate

For the Respondents : Mr. Partha Sarthi- GA4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-06-2018

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

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

“(i) For issuance of an appropriate writ including writ in the nature of certiorari for quashing the proceeding of certificate case no. 12/17-18 (Misc.) whereby and whereunder the certificate proceeding is started against petitioner for recovery of Rs. 51,56,217=00 + interest. The aforesaid certificate case is filed without adjusting/making payment of bill of the petitioner and



also the rent for the period when the petitioner and also the rent for the period when the petitioner was either not allotted or he left the settlement of Jipsy Café after giving written information to the respondents.

(ii) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondents to make payment of his bill @ Rs. 11,57,535/- which was submitted by him much earlier and the respondents are keeping mum on the matter.

(iii) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondent to adjust or pay the amount of repairing and painting of the Jipsy Café which was done after the order of the then District Magistrate Cum Collector.

(iv) For issuance of an appropriate writ including a writ in the nature of mandamus commanding and directing the respondents to restrain to charge/demand the settlement amount (rent) for the period when the petitioner or his representative has not participated in the bid and also refused orally as well as in written to continue as settle of Jipsy Café.

(v) For issuance of any other appropriate order/orders direction/directions, relief/reliefs for which the petitioner may be deemed fit and proper in the facts and circumstances of the case."

3. It is submitted on behalf of the petitioner that the entire proceedings in Certificate Case No. 12/2017-18 (Misc.) 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. 51,56,217/- 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. 51,56,217/- recoverable in terms of the order dated 17.04.2018 issued by the District Certificate Officer, Siwan in Certificate Case No. 12/2017-18 (Misc).

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 District Certificate Officer (Respondent No. 8) 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 District Certificate Officer, Siwan shall not resort to any coercive action for recovery of the dues against the petitioner in



Certificate Case No. 12/2017-18 (Misc).

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.07.2018
Transmission Date	N.A.

