

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5433 of 2019

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Sanjay Bind Son of Harishchandra Bind Resident of Village- Amari, P.S.
Dharahra, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Excise Department Govt. of Bihar, Patna.
3. The Collector cum District Magistrate Munger.
4. The Superintendent of Excise Munger.
5. The Certificate Officer, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jyoti Ranjan Jha, Adv
For the State : Mr.Alok Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 19-11-2019

This case has been passed over on earlier occasion to accommodate learned counsel for the petitioner. Today, once again a prayer for time has been made which has been opposed by learned counsel for the respondents.

2. Petitioner in this case is aggrieved by and dissatisfied with the order of initiation of the certificate proceeding giving rise to Certificate Case No.06/14-15 which is presently pending before the Certificate Officer, Munger (respondent No.5).

3. It is the case of the petitioner that he has filed an objection petition before the Certificate Officer, Munger on



06.02.2019 which has not been considered. It is brought on record at Annexure- '5' and submits that the same is the objection of the petitioner.

4. Learned counsel for the State submits that the petitioner is unable to demonstrate as to why he could not appear on several dates prior to 06.02.2019.

5. On perusal of the record, this Court finds that earlier a notice to show cause was issued to the petitioner under Section 7 of the Bihar and Orissa Public Demand Recovery Act(hereinafter referred to as 'the Act of 1914'), some time on or about 17.08.2015. Despite service of show cause notice, the petitioner did not appear. To procure the attendance of the petitioner, the Certificate Officer issued a warning notice and thereafter a warrant of arrest.

6. The Circle Officer of the area in question was called upon to submit the detail of the asset of the petitioner.

7. At this stage, on 06.02.2019, the petitioner has appeared before the Certificate Officer and filed his objection under Section 9 of the Act of 1914 which has not been accepted by the Certificate Officer. In the opinion of this Court, once the petitioner appeared and filed his objection under Section 9 of the Act of 1914, the Certificate Officer was required to take the same



on the record and consider the objection in accordance with law. The fact that the petitioner had not appeared earlier or that a warrant of arrest was issued against him by the Certificate Officer cannot be relevant consideration to deny filing of the objection petition by the petitioner.

8. This writ application is, thus, allowed to the extent that the objection petition enclosed as Annexure- '5' to the writ application will be taken on record by the Certificate Officer, Munger (respondent No.5) and the same will be considered and the final order in accordance with law under Section 10 of the Act of 1914 shall be passed within a period of three months from the date of receipt/production of a copy of this order.

9. The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Nitesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.11.2019
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