

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9445 of 2019

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Ravi Chauhan, male, aged about 34 years, Son of Professor Kameshwar Prasad Resident of Village/Mohalla-Ashok Nagar, P.S.-Rampur, District-Gaya, Bihar

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Industries, Bihar
2. The Director of Industries, Patna, Bihar
3. The Certificate Officer, Gaya

... .. Respondents

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Appearance :

For the Petitioner : Mr. Avinash Kumar Singh, Advocate.

For the Respondents : Mr. W.A. Khan, AC to SC-25

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 11-06-2019

This matter has been heard and is being taken up for final disposal at the admission stage itself with the consent of parties.

2. The present writ petition has been filed for the following reliefs as formulated by the petitioner -

“(i) For setting aside Notice dated 11.02.2019, issued by the Certificate Officer, Gaya, under Section 7 of Bihar & Orissa Public Demand Recovery Act, to the petitioner in Certificate Case No. 01 of 2018-19, whereby and whereunder the petitioner has been informed that on the basis of requisition for a certificate dated 25.01.2019 issued by Director of Industries, Bihar for recovery of Rs. 17,90,040/- along with 12% interest in respect of a public demand, against petitioner having arisen on account of



violation of the terms and conditions of Industrial Incentive Policy, 2011 as well as sanction order of the incentive granted to Royal Manufacturing and Technologies Pvt. Ltd.

(ii) For setting aside requisition for a certificate dated 25.01.2019 issued by Director of Industries, Bihar to Certificate Officer, Gaya seeking recovery of Rs. 17,90,040/- along with 12% interest from the petitioner in respect of a public demand having arisen on account of violation of the terms and condition of Industrial Incentive Policy, 2011 as well as sanction order of the incentive granted to Royal Manufacturing and Technologies Pvt. Ltd.

(iii) Further for restraining the respondent authorities from taking any action including issue of certificate against the petitioner in his personal capacity in pursuance of the requisition dated 25.01.2019 and notice dated 11.02.2019 during pendency of the present writ application;

(iv) During pendency of the present writ petition the respondents may be restrained from taking any coercive action against the petitioner and further proceedings in Certificate Case No. 01 of 2018-19 pending before the Certificate Officer, Gaya may be kept in abeyance.

(v) For any other relief or reliefs to which the petitioner may be found entitled in course of hearing of this writ application."

3. Learned counsel for the petitioner makes a short submission to the effect that the entire certificate proceeding against the petitioner, who happens to be the Managing Director of



Royal Manufacturing and Technologies Private Limited, for recovery of certain amount of subsidy which had been granted to the subject Company, is wholly arbitrary and illegal. Reliance is placed on a Bench decision of this Court passed in C.W.J.C. No. 17964 of 2017 dated 23.01.2018.

4. Learned counsel for the State appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the submission of the petitioner. In the decision reported in *M/s Vishal Rolling Mills Private Limited & Anr. vs. the Bihar State Power (Holding) Company Limited & Ors.*, 2016 (3) PLJR 561, this Court took note of the well-settled principle enunciated in *Kanhaiya Lal vs. The State of Bihar and Others*, [2002(2) PLJR 553] to the effect that -

“7. In **Kanhaiya Lal** (supra) this Court has held as follows -

“..... the law on the point is well settled that the liability of the company cannot be enforced against its officers including Director or Managing Director.”

6. A bare perusal of requisition issued under Section 5 of the PDR Act as well as the notice under Section 7 of the PDR Act clearly discloses that the same has been issued only against the petitioner seeking to recover the amount of subsidy said to have



been misused by violation of terms and conditions of the Industrial Incentive Policy, 2011. Such recovery against the petitioner for the dues of the Company cannot be enforced.

7. As such the impugned requisition dated 25.01.2019 as well as the notice under Section 7 of the PDR Act (Annexure-6 series) are hereby set aside and the writ petition stands allowed.

(Vikash Jain, J)

Ibrar/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.06.2019
Transmission Date	N.A.

