

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14722 of 2019

Vinay Kumar, Gender -Male, aged about 65 years, S/o Late Surya Shekhar Prasad Singh Vill.- Sinawan @ Sonawa, P.s.- Parwalpur, Distt.- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Transport Department, Govt. of Bihar, Patna
2. The Secretary Transport Department, Govt. of Bihar, Patna
3. The Transport Commissioner Transport Department, Govt. of Bihar, Patna
4. The Joint Commissioner-cum-Certificate Officer Patna Division, Patna
5. The District Transport Officer Nalanda.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate
For the Respondent/s : Mr. Anuj Kumar, A.C. to GP24

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 17-10-2019 Heard learned counsel for the petitioner and

learned counsel representing the State.

Learned counsel for the petitioner submits that the certificate case no. 330 of 2013/14 has been initiated against the petitioner for recovery of dues amount of Rs. 14,80,959/- against Road Tax/Additional Tax/Penalty for plying the Mini Bus bearing Registration No. BHP-8061 from 01.10.2001 to 31.03.2006. In the said certificate case the petitioner has appeared and filed his objection under Section 9 of the Bihar and Orissa Public Demand Recovery



Act, 1914 (hereinafter referred to as the “Act of 1914”) and the same is still pending consideration.

Referring to the order dated 27.02.2018 passed by the Certificate Officer, learned counsel for the petitioner submits that on the said date when the petitioner had appeared before the Certificate Officer the next date was fixed on 28.04.2018 but thereafter an interpolation was done in the date and by overwriting the date was changed to 29.11.2018. On 29.11.2018 the Certificate Officer recorded that the vehicle owner is not appearing and therefore a bailable warrant of arrest be issued against him.

It is the submission of learned counsel for the petitioner that the Certificate Officer is not justified firstly in keeping the objection of the petitioner pending and then after shifting the date of hearing without any prior notice to the petitioner he could not have ordered to issue a bailable warrant against the petitioner.

Learned counsel for the State submits that in the given facts and circumstances of the case since from the record it appears that under Section 9 of the Act of 1914 objection of the petitioner is pending, this court may direct



the Certificate Officer to pass an appropriate order thereon.

Having heard learned counsel for the petitioner and learned counsel for the State, this court directs the Joint Commissioner-cum-Secretary-cum-Certificate Officer, Patna Division, Patna (respondent no. 4) to consider the objection of the petitioner and after giving an opportunity of hearing to the petitioner dispose it off within a period of three months from the date of receipt/production of a copy of this order.

Prima-facie this court finds that there is an interpolation in the date as by overwriting in the order dated 27.02.2018 the date has been changed to 29.11.2018, this should not have been done, and in such circumstance, the respondent was not justified in issuing a bailable warrant of arrest against the petitioner.

Let the warrant of arrest issued against the petitioner be recalled by the Certificate Officer as the same shall not be executed against the petitioner in the present facts and circumstances. The Certificate Officer shall however give an independent consideration to the objection petition and shall pass an appropriate order in accordance



with law within the aforesaid period.

The petitioner, if so advised, may file any additional/supplementary objection within a period of two weeks from today.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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