

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25289 of 2019

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Rama Prasad Singh, son of Late Chandrakhet Singh, resident of village and Post - Rahimapur, Police Station and Block- Bidupur, Sub-Division- Hajipur Sadar, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
2. The District Magistrate, Vaishali at Hajipur.
3. The District Panchayat Raj Officer, Vaishali at Hajipur.
4. The Deputy Collector Land Revenue, Vaishali at Hajipur.
5. The Certificate Officer, Vaishali at Hajipur.
6. The Block Development Officer, Hajipur Sadar, District- Vaishali at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy

For the Respondent/s : Ms. Archana Meenakshee (Gp6)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 17-12-2019 Heard the learned counsel for the petitioner and the State.

The petitioner has challenged the certificate proceedings against him by way of Certificate Case No. 51 of 2014-15 on the ground that the entire defalcated



amount has been saddled on the petitioner and another which could not have been done without apportioning the specific amount of defalcation at the hands of petitioner.

It has been submitted on behalf of the petitioner that while he was posted at Hajipur, he was made Incharge of three Panchayats. The work of installation of solar lights was undertaken by him after the approval of *Gram Sabha* and administrative sanction of the Block Development Officer. The Three-Men-Committee constituted to look into the irregularities did not even notice the petitioner. As such, the certificate case initiated against the petitioner is absolutely misconceived, to say the least. It is at least premature in as much as there has not been any application of mind with respect to formulation / quantification of the amount which could be treated as an arrears to be paid by the petitioner and recoverable under the Bihar and Orrissa Public Demand Recovery Act, 1914.

Learned counsel for the petitioner has drawn



the attention of this Court to an order passed in C.W.J.C. No. 20165 of 2014 in which on the same ground of the proceedee not having been noticed by Three-Men-Committee and no specific amount having been quantified to be recovered from him, the proceedings as against him was set aside with a direction to the Certificate Officer to pass a fresh order for direction of recovery of such amount through certificate proceeding but only after ascertaining the specific amount of defalcation attributable to him.

This prayer otherwise also appears to be reasonable.

Without specifying the actual amount of defalcation by the petitioner, which alone could have been recovered from him through a proceeding under Bihar and Orrissa Public Demand Recovery Act, 1914, no such notice could have been issued or proceeding could have been initiated.

There cannot be any joint recovery proceeding



from more than one person.

Considering this aspect of the matter, this Court is of the view that the proceeding against the petitioner is premature and thus misconceived.

The ends of justice would sufficiently be met if the proceeding with respect to the petitioner is quashed with a direction to the Block Development Officer to pass a fresh order directing for recovery of such amount through certificate proceeding only after ascertainment of the amount of defalcation attributable to the petitioner.

Needless to state that if such an order would be passed, a certificate shall be issued for that amount and the petitioner would be provided an opportunity of raising his objection under Section 9 of the Act.

It would also be apposite to direct that at the time of the Block Development Officer deciding the issue with respect to the defalcation of amount by the petitioner, the petitioner also be heard.



With the aforesaid observation / direction, this
petition stands disposed off.

(Ashutosh Kumar, J)

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