

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23293 of 2019

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Rakesh Kumar Singh @ Rakesh Singh @ Rakesh Kumar (Male) aged about 35 years, son of Sri Ramesh Singh, Resident of Village- Jorar, P.O.- Badaura, P.S.- Ramgarh, District- Kaimur

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Minerals, Bihar, Patna
2. The Collector Kaimur, Bhabua
3. The Certificate Officer-cum-Sub-Divisional Officer, Mohania
4. The Assistant Mining Officer Kaimur, Bhabhua

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Arun Kumar Singh, Advocate
For the State	:	Mr. Gyan Prakash Jha , GA 7
For the Mines Deptt.	:	Mr. Naresh Dixit, Ms.Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 26-11-2019

Heard Mr. Arun Kumar Singh, learned Advocate for the petitioner, Mr. Gyan Prasad Ojha, learned Government Advocate for the State and Mr. Naresh Dixit, learned Advocate for the Mines Department.

The petitioner has approached this Court for quashing the order dated 01.03.2018/ 19.04.2018 in Certificate Case No. 191 of 2017-18 whereby an order has been issued by the Certificate Officer, Kaimur at Bhabhua for



executing the warrant against the petitioner for realization of of the certificate amount.

It appears that on the basis of Requisition No. 06 of 2006-07, a certificate case was initiated against the petitioner. The petitioner had opened a brick kiln in the year 2002 but for some reason, the business was discontinued in the year 2005 under proper intimation to the Mining Department. However, the business of the petitioner was considered to be running without depositing fee, which was exacted by the Mining Department, which continued to swell in the records of the Department. Later, on the requisition of the due amount, the certificate was issued under Section 7 of the Bihar & Orissa Public Demand Recovery Act, 1914 (for short, "the Act"). It is the pointed defence of the petitioner that he did not know about the existence of the certificate case or else he would have appeared before the concerned Certificate Officer under Section 9 of the Act and would have discharged his responsibility by replying that there was no amount due with him. He came to know about the aforesaid proceeding only through the villager chowkidar



who informed that there is a warrant against him for recovery of the certificate amount. This information was received by the petitioner on 15.10.2019 when he approached this Court for setting aside such an order of issuance of warrant. In support of the contention raised by the petitioner as aforesaid, the entire order sheet of the certificate court has been brought on record to demonstrate that there was no service of notice upon the petitioner under Section 7 of the Act.

Mr. Naresh Dixit, learned Advocate appearing for the Mines Department, submits that though, for the moment, there is no material to dispute the aforesaid assertion but considering the fact that the order of the certificate court does not indicate anything about the service of notice on the petitioner, it would only be appropriate that the petitioner be given liberty to approach the Certificate Officer and make an application in the requisite format under Section 9 of the Act, disputing his liability to pay the certificate amount.

The aforesaid approach of the Mining Department



is absolutely justified. The petitioner also is agreeable to go before the Certificate Officer along with a petition prescribed under Section 9 of the Act.

The petitioner shall approach the Certificate Officer with the requisite application within a period of three weeks. On receipt of such application, the concerned Certificate Officer shall pass a fresh/reasoned order and only then would proceed ahead for recovery of the amount.

In the meantime, no coercive step shall be taken against the petitioner in connection with Certificate Case No. 191 of 2017-18 pending in the court of Certificate Officer, Kaimur at Bhabhua and the warrant which has been issued by the Certificate Court is hereby quashed.

The application stands disposed of with the aforesaid direction and observation.

(Ashutosh Kumar, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	.11.2019
Transmission Date	.11.2019

