

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17615 of 2018

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Sunil Sah Jaiswal @ Sunil Sah @ Sunil Kumar Jaiswal S/o Late Sarju Prasad
Jaiswal @ Sarju Sah Resident of Village - Noan, P.S. Noan, District - Kaimur.

... .. Petitioner

Versus

1. The State Of Bihar through its Principal Secretary, Bihar Mines and Geology Department, Patna at Patna.
2. The Special Secretary-cum-Director, Bihar Mines and Geology Department, Patna.
3. Auction Officer, Mines Patna Circle at Patna.
4. Auction Officer, Mohaniya District Kaimur at Bhabua.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Arun Kumar Gupta, Advocate
For the Mines	:	Mr. Naresh Dixit, Advocate
		Mr. Brij Bihari Tiwari, Advocate
For the State	:	Mr. Gyan Prakash Ojha- GA-7
		Mr. Abhishek Singh, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-04-2019 Learned counsel for the petitioner submits that in Certificate Case No. 04/2015-16 the petitioner has filed his objection which would be evident from the order dated 31.05.2016. Thereafter, instead of deciding the objection of the petitioner and pass an appropriate order thereon, the District Certificate Officer has issued warrant of arrest against him for recovery of the amount.

Learned counsel submits that issuance of warrant of arrest without deciding the objection of the petitioner is against the procedures established by law and hence is liable to be set aside. It is further submitted that there are five different



certificate proceedings initiated against the petitioner for five different years, however because of the issuance of warrant of arrest issued against him in one of the cases, he is unable to take a proper objection in those cases and pursue his remedy in accordance with law.

Learned counsel for the Department of Mines, Government of Bihar submits that in fact for recovery of the certificate amount the petitioner was once arrested but then he was released on making payment of some amount approximately Rs. 70,500/-. He had agreed to pay the remaining dues in few installments but then failed to do so. It is submitted that the conduct of the petitioner does not show his *bonafide*.

Learned counsel for the State is also present and adopts the submission of learned counsel representing the Department of Mines.

Having heard learned counsel for the parties and on perusal of the records, this court finds that so far as Certificate Case No. 04/2015-16 is concerned, in the order dated 31.05.2016, it appears that the petitioner had submitted his objection. If it is so, it was not correct on the part of the District Certificate Officer to issue a warrant of arrest against the petitioner without deciding his objection. Thus, the order dated



19.04.2018, by which warrant of arrest has been ordered to be issued against the petitioner, is quashed. The warrant issued in the said case shall not be executed against the petitioner.

So far as other cases are concerned, this court directs that the petitioner would appear in those cases within a period of four weeks from today and shall file his objection in those cases which will be considered. The District Certificate Officer shall consider the objection of the petitioner and will pass an appropriate order thereon. For a period of 60 days from today the warrant of arrest, if any, in any of those cases, shall not be executed.

The writ application stands disposed of in the aforesaid terms.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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