

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21086 of 2019

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Bhuvneshwar Mandal, aged about 65 years, S/o Late Ayodhi Mandal, resident of Village - Dharhara, P.S.- Andharamath Dharahar, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Welfare, Government of Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
4. The District Magistrate, Madhubani, District- Madhubani.
5. The District Education Officer, Madhubani, District- Madhubani.
6. The District Program Officer (Establishment), Madhubani, District- Madhubani.
7. The District Certificate Officer, Madhubani, District- Madhubani.
8. The Block Education Officer, Laukahi, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.

For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 23-01-2020

The petitioner seeks quashing of Certificate
Case No. 01/2017-18 pending before the Certificate
Officer, Madhubani on the ground that on a wrong



premise, he has been proposed as a certificate debtor.

2. The petitioner was appointed as a teacher under reserved category in Primary School, Navtoli (Babubarhi) and over a period of time, he was promoted to the pay-scale of I.Sc. trained. The petitioner has now retired.

3. A complaint was made that the petitioner does not belong to the reserved category and, therefore, his appointment was on a wrong premise. Thus, whatever salary was received by the petitioner was recoverable and since the petitioner did not return the salary, the amount was certified as public demand to be recoverable under the Bihar and Orissa Public Demands Recovery Act, 1914 (*in short the Act*).

4. Mr. Ranjan Kumar Jha, learned counsel for the petitioner has submitted that initiation of the proceeding is absolutely incorrect and unjustified for the reason that even if the caste of the petitioner is not found to be included in the reserved category but if the petitioner has rendered his services, there could be no



recovery of the salary. Apart from this, the petitioner has challenged the aforesaid assertion of the respondent that his caste is not included in the reserved category, entitling the petitioner for being appointed at the relevant time. The caste 'Khatwe', which was disclosed by the petitioner, is even today in the list of castes of the reserved category.

5. All these grounds are required to be agitated in the objection petition before the Certificate Officer, Madhubani, which has yet not been done.

6. Should the petitioner prefer such objection petition under Section 9 of the Act within a period of three weeks, the concerned Certificate Officer shall look into the entire aspect of the matter and shall pass a reasoned order in accordance with law within a further period of six weeks thereafter. The concerned Certificate Officer shall also intimate the petitioner about the outcome of the decision.

7. Till the time the objection petition is disposed off by the concerned Certificate Officer, no penal action shall be taken against the petitioner.



8. The writ petition stands disposed off to the
extent indicate above.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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