

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6578 of 2020

=====

Ramashish Baitha, Son of Bhuta Baitha, Resident of Village- Basant Jagjivan,
Ward- 09, P.S.- Purnahiya, District- Sheohar- 843334.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj, Govt. of Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The Deputy Development Commissioner, Sitamarhi.
5. The District Certificate Officer, Sitamarhi.
6. The Sub- Divisional Officer, Pupri, District- Sitamarhi.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur, Advocate

For the Respondent/s : Mr. Ajay, GA 5

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 15-11-2021

Petitioner has prayed for the following relief(s):-

- (i) For issuance of writ in the appropriate nature for quashing of the entire proceeding of Certificate Case No. 07/2018-19 on the ground that the petitioner has been exonerated in departmental proceeding holding that the petitioner is not liable for defalcation.



- (ii) For further quashing of the entire proceeding of Certificate Case No. 07/2018-19 on the ground that the requisition which was the basis of the said proceeding is defective as several column of the requisition is left vacant which vitiates the entire proceeding.
- (iii) For issuance of writ of certiorari for quashing the entire proceeding of Certificate Case No. 07/2018-19 pending before the District Certificate Officer, Sitamarhi which is initiated against the petitioner on the ground that Certificate (Form-1) which is part of the Notice under Section 7 is contrary to the statutory provision of Public Demand Recovery Act, 1914 (hereinafter referred as PDR Act for the sake of gravity) as it is blank at many column, not properly made which amount to defective notice and proceedings in certificate case upon defective notice is bad in law which is hold by this Hon'ble Court in catena of judgment and also by the Hon'ble Apex Court.
- (iv) For quashing of the entire proceeding of the Certificate Case No. 07/2018-19 pending before the District Certificate Officer, Sitamarhi on the ground that neither the requisition nor the certificate was served with the notice to the petitioner which was mandatory in terms of the PDR Act and it is against the principles of natural justice.



(v) For further direction to the Respondents authority the District Certificate Officer to dispose of objection of the petitioner filed under Section 9 of the Public Demand Recovery Act considering the report of departmental proceeding wherein the petitioner has been exonerated.

(vi) And for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.

Learned counsel for the petitioner submits that a certificate proceeding has been initiated against petitioner under the Public Demand Recovery Act, 1914 (hereinafter referred to as the 'Act') for recovery of amount of Rs. 507725/- which is alleged to have been misappropriated while petitioner was posted as Section Officer, Sub-divisional Office, Pupri, Sitamarhi. He further submits that for the same charges a departmental proceeding was initiated against him as well as FIR was also instituted. He has been exonerated of the charges by the Enquiry Officer.

It is submitted that he has taken objections



under section 9 of the Act but without considering his objections and determining the liability of petitioner, warrant of arrest has been issued against him. Section-9 whereof reads as follows:-

“9. Hearing and determining of such petition - The Certificate Officer in whose office the original certificate is filed may after hearing the petition and taking evidence if necessary confirm, set aside, modify or vary the certificate as he deems fit.”

The writ petition is disposed of with a direction to the District Certificate Officer, Sitamarhi, to first consider and decide the objections filed by the petitioner by a reasoned and speaking order and determine the liability of the petitioner under the PDR Act and thereafter only he can take coercive steps for realization of said amount and till order on objections filed by petitioner under section 9 of the PDR Act is not passed and his liability is not determined under the PDR Act, no coercive action be taken against the petitioner till such order, if not already passed, is passed by the District Certificate Officer.

The petition stands disposed of.



Interlocutory application, if any, shall also
stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Sanjay

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.11.2021
Transmission Date	NA

