

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2883 of 2021

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Krishna Nandan Prasad Singh, Son of - Late Sheo Deni Singh, Resident of -
53, Satyam Apartment, Nageshwar Colony, Kavi Raman Path Boring Road,
P.S. - Buddha colony, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Vaishali, Hajipur.
2. The District Magistrate, Vaishali, Hajipur.
3. The District Development Commissioner, Vaishali, Hajipur.
4. The Executive Engineer, Local Area Engineering Organization, Work
Division- 01, Hajipur, Vaishali.
5. The Executive Engineer, N.R.E.P., Vaishali, Hajipur.
6. The Certificate Officer, Vaishali, Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate
For the Respondent/s : Mr. Lalit Kishore (A.G.)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 22-11-2021

Heard learned counsel for the parties.

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

(I) “That the present writ application is being
filed for issuance of appropriate writ/order/direction in the
nature of certiorary for quashing/setting aside the
Certificate Case No. 402/2014-15, which has been initiated
against the petitioner on the basis of following grounds.

(a) The demand made under
certificate proceeding is not qualified under “Public
Demand” under Section 3(6) read with schedule-1 of
Bihar & Orissa Public Demand Recovery Act, 1914 for

the sake of brevity hereinafter mentioned PDR Act, 1914, as the petitioner himself is a public servant and the money for which demand has been raised has been spent in official capacity with due approval from the department.

(b) The notice served under certificate case no. 402/2014-15 is defective and the copy of the requisition for the issuing the certificate has not been served to the petitioner which is violation of principle of natural justice.

(c) The proceeding started against the petitioner is against the principle of equity as the petitioner along with other officers was responsible for the implementation of scheme, while the proceeding has been started against the petitioner only.

(II) Alternatively for setting aside the order dated 15.12.2017 and 12.01.2018 passed in certificate case no. 402/2014-15, whereby and where under the objection filed by the petitioner has been declared time barred, which is contrary to the record itself and warrant of attachment has been issued against the petitioner in complete violation of Section 12 and Section 13 of PDR Act, 1914.

(III) For directing the respondents to consider their review application filed under Section 63 of PDR Act, 1914, which is pending since 21.03.2018.

(IV) For supplying the copy of requisition to the petition which has been filed before the Certificate Officer for issuance of the Certificate.

(V) For any other relief for which the petitioner is entitled for in the facts and circumstances of the case.”

Learned counsel for the petitioner in the presence of

learned counsel for the respondents submit that this case is squarely covered by the judgment of this Court dated 27.09.2021 passed in CWJC No. 907 of 2021 (Ashwini Kumar Gupta Vs. The State of Bihar and Ors), and said contention is not disputed by learned counsel for the State and learned counsel for the BSFC, as such present writ petition is disposed of in the same terms. The operative portion of the said judgment reads as follows:-

“Having regard to the facts and circumstances of the case and having heard the learned counsel for the parties, this Court finds that the impugned order dated 29.02.2020 is an unreasoned order which does not show any application of mind and moreover, no succinct, clear or cogent reasons have been furnished for arriving at a decision to reject the objection filed by the petitioner under Section 9 of the Act, 1914, hence the same is not sustainable in the eyes of law, thus is quashed, however, the matter is remanded back to the Certificate Officer, Kaimur at Bhabua to pass appropriate orders, in accordance with law after considering the objection filed by the petitioner under Section 9 of the Act, 1914. Reference in this connection be had to a judgment rendered by the Hon’ble Apex Court in the case of Oryx Fisheries (P) Ltd. vs. Union of India & Ors. reported in (2010) 13 SCC 427.”

The writ petition stands allowed to the aforesaid extent.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	