

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6513 of 2019

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Tej Narayan Rai, aged about 63 years (M) Son of Late Ram Bali Rai resident of Village and P.O.- Kanhauli, P.S.- Darauli, District- Siwan (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar.
2. The Principal Secretary, Human Resources Development Department Government of Bihar.
3. The Director, Primary Education Bihar, Patna.
4. The District Magistrate-Cum- Certificate Officer Siwan.
5. The District Education Officer, Siwan District- Siwan.
6. The District Programme Officer (Establishment), Siwan District- Siwan.
7. The Block Education Officer, Guthani, District- Siwan.
8. The Head Master-Cum- Drawing and Disbursing Officer, Guthani Block, District- Siwan.
9. Sri Manager Singh Son of Sri Lakshmi Singh Resident of Village and P.O.- Kanhauli, P.S. Darauli, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr.Prabhakar Jha, GP 27

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-10-2022

Heard learned counsel for the parties.



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

“i. Issuing of writ of certiorari and thereby quashing the order dated 15.12.2016 passed in Certificate Case No.02/2016-17 issued under the signature of Certificate Officer, Siwan whereby and whereunder demand worth Rs.1299909/- (Rupees Twelve Lakhs Ninety Nine Thousand Nine Hundred Nine Only) as raised by the District Programme Officer, Siwan vide his letter dated 29.11.2016 has been accepted and recognized as 'Public demand' within the meaning of Section 14 of Public Demand under Bihar & Orissa Public Demand Recovery Act, 1914 and notice has been issued to the petitioner.

ii. Issuing of writ of certiorari and thereby quashing the certificate of public demand dated 24.03.2017 issued in Case No.03/2016-17 as Form-1 Under Sections 4 and 6 of under Bihar & Orissa Public Demand Recovery Act, 1914 whereby certificate for recovery worth Rs.1,04,191/- has been issued against the petitioner; & consequently issuing a writ of certiorari quashing the certificate proceedings of Case No.03/2016-17 whereby and whereunder recovery worth Rs.1,04,191/- is to be made from the petitioner.

iii. Issuing of writ of certiorari and thereby quashing the order dated 08.04.2017 passed in Certificate Case No.02/2016-17 issued under the signature of Certificate Officer, Siwan whereby and whereunder (i) demand worth Rs.1299909/ (Rupees Twelve Lakhs Ninety Nine Thousand Nine Hundred



Nine Only) as raised by the District Programme Officer, Siwan vide his letter dated 29.11.2016; and (ii) demand worth Rs.1,04,191/ as raised by the District Programme Officer, Siwan vide his letter dated 22.12.2016 has been accepted and recognized as Public Demand under Section 14 of Bihar & Orissa Public Demand Recovery Act, 1914 and both the demands have been clubbed together by deciding for keeping the records of Certificate Case No.02/2016-17 and Certificate Case No.03/2016-17 together for a cumulative demand of Rs.14,04,100/- (Fourteen Lakhs Four Thousand One Hundred) to be recovered from the petitioner.

iv. Further issuing of writ of certiorari and thereby quashing the order dated 15.12.2016 passed in Certificate Case No.02/2016-17 issued under the signature of Certificate Officer, Siwan whereby and whereunder a certificate for recovery of Rs.1299909/- (Rupees Twelve Lakhs Ninety Nine Thousand Nine Hundred Nine Only) has been issued against the petitioner Under Public Demand under Bihar & Orissa Public Demand Recovery Act, 1914.

v. Further issuing a writ in the nature of certiorari and thereby quashing of entire certificate proceeding relating to Certificate Case No.02/2016-17 and Certificate Case No.03/2016-17 pending before Certificate Officer, Siwan

vi. For holding that the petitioner who has worked for the period October 1990 until April 2010 and has been paid his salary against the work done cannot be subjected to certificate proceeding on



the basis of the petitioner having drawn salary of graduate trained teacher on the basis of a forged training certificate and such contemplated recovery from the petitioner would not amount to 'Public Demand' under the Bihar & Orissa Public Demand Recovery Act, 1914.

vii. For directing the respondents not to proceed with the Certificate proceeding drawn under Bihar & Orissa Public Demand Recovery Act, 1914 vide Certificate Case No.02/2016-17 and Certificate Case No.03/2016-17 until the pendency of present writ application.

viii. For issuing of writ of mandamus directing all consequential benefits in favour of petitioner which is entitled to upon such in quashing the certificate proceeding drawn in furtherance of Certificate Case No. 02/2016-17 and Certificate Case No.03/2016-17 drawn against the petitioner.

ix. The Hon'ble Court may pass any order/ orders, direction/directions which it may deem fit within the facts and circumstances of the case and within the ends of equity justice and good conscience.”

It is not in dispute that petition under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) is pending consideration/petitioner intends to file before the appropriate authority.



Learned counsel for the parties jointly pray that the instant petition be disposed of with direction to the appropriate authority to consider and decide the same expeditiously.

Learned counsel for the State states that the appropriate authority shall consider and decide the petition filed/ to be filed by the petitioner under Section 9 of the Act positively within a period of two months from the date of appearance of the petitioner before him along with a copy of this order and the issue of limitation shall not come in the way of decision on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall appear in the office of the appropriate authority on **4th of November, 2022** along with a copy of this order, on which date documents in support of the petition shall be filed, or else file a fresh petition under Section 9 of the Act.

(b) The appropriate authority shall consider and dispose of the petitioner's petition expeditiously, by a reasoned and speaking order, preferably within a period of two months from the date of appearance of the petitioner before him and till



then no coercive steps be taken against the petitioner;

(c) The authority shall also examine as to whether the amount in question falls within the definition of public demand or not;

(d) The authority shall also examine all issues including question of fact and law;

(e) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing as also leading evidences has to be afforded to the parties;

(f) Order assigning reasons shall be supplied to the parties;

(g) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(h) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(i) Liberty reserved to the petitioner to challenge the order passed by the appropriate authority, before the appropriate forum, if so required and desired.



(j) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	19/10/2022
Transmission Date	

