

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11420 of 2021

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Santosh Kumar @ Kumar Nav Vaibhav, aged about 42 years, male, Son of
Saryoo Prasad Singh resident of village- Yodha Nagar, P.S.- Aurangabad,
dist.- Aurangabad

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Public Health Engineering
Department, Govt. of Bihar, Patna
2. The District Magistrate, Jehanabad
3. The District Certificate Officer, Jehanabad
4. The Sub Divisional Officer/Tribunal Minimum Wages Jehanabad
5. Labor Superintendent Jehanabad
6. Superintendent of Police, Aurangabad
7. Officer in Charge, Aurangabad Sadar, Aurangabad

... .. Respondents

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Appearance :

For the Petitioner : Mr. Ashok Kumar, Adv.
For the Respondents : Mr. Raghwendra Kumar SC-22

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

2 24-03-2022 The petitioner is seeking quashing of the Certificate

Proceeding Case No. 4 of 2017-2018 initiated for recovery of a
sum of Rs. 13,62,000/- from the petitioner in the light of an
order passed by the Sub Divisional Officer, *Jehanabad*- cum-
Tribunal minimum wages dated 19-08-2017.



2. *Mr. Amarnath Singh*, learned counsel appearing on behalf of the petitioner has drawn our attention to the order sheet of the Certificate Proceeding to contend that the Certificate Officer had earlier directed for issuance of distress warrant (DW) against the petitioner without service of notice upon him under Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (for brevity 'the Act'). He has further drawn our attention to a subsequent order passed by the Certificate Officer dated 13-02-2020, whereby the said DW, issued against the petitioner, was decided to be recalled by the Certificate Officer, noticing the fact that the notice under Section 7 of the Act was, in fact, not served upon him. By a subsequent order dated 24-06-2020, the Certificate Officer directed for issuance of DW against one Ramadhar Singh. Mr. Amarnath Singh has also drawn our attention to a subsequent communication dated 26-06-2020, issued by the District Certificate Officer, Jehanabad, addressed to the Station House Officer, Sadar, Aurangabad Police Station for ensuring execution of the DW against the Certificate-debtors. He has submitted that once the DW issued against the petitioner was recalled by an order dated 13-02-2020, there was no occasion for the District Certificate Officer to issue another on



26-06-2020 without deciding the petitioner's objection filed under Section 9 of the Act wherein he had denied liability. He has submitted that on the strength of the said communication dated 26-06-2020, the petitioner is sought to be arrested. There is no statement, however, in the writ application that subsequent to said letter dated 26-06-2020, any fresh warrant of arrest has been issued against the petitioner.

3. On bare perusal of the said communication dated 26-06-2020 of the Certificate Officer, it appears that the Certificate Officer has requested the Station House Officer to ensure execution of distress warrant against the said *Ramadhar Singh*. So far as the petitioner is concerned, it has been mentioned in the said notice that a last warning has been issued against him. The petitioner's case that the said communication dated 26-06-2020 amounts to issuance of distress warrant, in Court's opinion is unfounded.

4. Mr. Singh, learned counsel for the petitioner is right in his submission that without taking any decision on the petitioner's objection denying liability, the Certificate Officer should not issue DW.

5. In the facts and circumstances of the case, as noted above, this application is disposed of with an observation that,



for the present, no interference is required by this Court. The Court, however, observes that the Certificate Officer must expeditiously decide the petitioner’s application denying his liability, said to have been filed, if not already disposed of.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

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