

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11773 of 2022

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Ainala Anil Kumar Son of Late A. Gopal, resident of House No. Plot No. 19, Bharati Avenue, Rajdhani Co-op Housing Society, near Kalyani Theater, Bowenpally, Secunderabad, Telangana- 500011, Police Station- Bowenpally Secunderabad, Telangana, one of the Ex- Director of M/s Vishwa Infrastructures and Services Private Limited, having its registered office at 1-11-256/C/24, Plot No. 24, Gagan Vihar Colony, Begumpet, Hyderabad, Telangana- 500016.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, District- Araria.
2. The District Magistrate, Araria, District- Araria.
3. The Certificate Officer, Araria, District- Araria.
4. The Additional Collector, Araria.
5. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
6. The Engineer-in- Chief, Public Health Engineering Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Shekhar, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, Advocate
		Mr. Vijay Kumar, Advocate
		Mr. AC to AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-08-2022

Heard learned counsel for the parties.

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

- (i) To issue a Writ in the nature of Certiorari for quashing the Certificate Case No.01/2017-18 including the entire Certificate proceeding having been initiated against the petitioner as same is in teeth of law laid down by Hon'ble Supreme Court and the provisions of Insolvency and



Bankruptcy Code, 2016, rendering the same as wholly without jurisdiction.

- (ii) To issue a Writ in the nature of Certiorari for quashing the Warrant of Arrest issued by the District Certificate Officer, Araria against the petitioner in Certificate Case No.01 / 2017-18.
- (iii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.

Admittedly, the petitioner has filed objection under Section 9 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as the 'Act') before the Certificate Officer, Araria on which decision has already been taken. However, in view of the question of maintainability raised by the petitioner, at this stage, we propose to set aside the order passed under Section 10 of the Act and remit the case to the same authority for decision afresh. This proposal is acceptable to the parties.

The petitioner will thus be at liberty to file fresh objection under Section 9 of the Act within four weeks from today. The Certificate Officer, Araria shall also take into account the preliminary objection raised by the petitioner regarding maintainability of the certificate proceeding and try to decide the matter expeditiously.

Till then, no coercive action shall be taken against the



petitioner.

The writ petition stands allowed.

(Sanjay Karol, CJ)

(Satyavrat Verma, J)

Rishi/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	

