

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17810 of 2021

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Kameshwar Prasad S/o of Late Ram Kishun Singh, resident of Village -
Ganga Bigha, P.S.- Karai Parshurai, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Govt. of Bihar, Patna.
2. The Inspector General of Excise, Bihar, Patna.
3. The Superintendent of Excise, Nalanda.
4. The District Magistrate, Nalanda.
5. The Sub Divisional Officer, Hilsa, Nalanda.
6. The Certificate Officer, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar, Advocate
For the Respondent/s : Mr.Kumar Manish (Standing Counsel-5)

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date: 10.05.2022

The present writ petition has been filed for quashing the order dated 08.02.2019/22.07.2021 passed by the Certificate Officer, Nalanda in Certificate Case No. 01/2015-16, whereby the Certificate Officer has directed to issue bailable warrant of arrest against the petitioner for recovery of the due amount totalling to a sum of Rs. 7,11,630/-.

The brief facts of the case are that a Certificate Case bearing Certificate Case No. 01/2015-16 was initiated against the petitioner and a notice under Section 7 of the Bihar & Orissa



Public Demand Recovery Act, 1914 (hereinafter referred to as the 'Act, 1914') was issued to the petitioner, directing him to pay a sum of Rs. 7,11,630/-. It appears that the petitioner had challenged the certificate proceedings bearing Certificate Case No. 01 of 2015/16 before this Court by filing a writ petition bearing CWJC No. 20039 of 2018 and the same was disposed off by the learned Single Judge of this Court by an order dated 29.10.2018 in the following terms:-

“In view of the aforesaid, the present writ petition is disposed off as withdrawn with liberty to the petitioner to file objection under Section 9 of the Act, 1914 and in case such an objection is filed within a period of six weeks from today, the Certificate Officer shall be obliged to consider the same and pass a final order in the ongoing certificate proceedings.

It is further directed that till the passing of the final order no coercive steps shall be taken against the petitioner herein. However, it is clarified that in case no such objection is filed within a period of six weeks from today, the Certificate Officer shall proceed ex parte.”

Admittedly the petitioner has not complied with the aforesaid order dated 29.01.2018 passed by the learned Single Judge in the earlier round of litigation.

The learned counsel for the petitioner submits that on account of the COVID-19 pandemic situation, the petitioner



could not file objection under Section 9 of the Act, 1914, however, it is submitted that liberty be granted to the petitioner to file objection under Section 9 of the Act, 1914.

Per contra, the learned counsel for the respondent-State has submitted that the present petition is barred by the principle of *res judicata* inasmuch as for the same cause of action, the petitioner had earlier approached this Court by filing a writ petition bearing CWJC No. 20039 of 2018, hence the writ petition is fit to be dismissed on this ground alone. It is also submitted that despite six weeks' having been granted by the learned Single Judge vide order dated 29.10.2018, when there was no COVID-19 pandemic situation, the petitioner deliberately did not file such objection in order to delay the proceedings and ensure that the public dues are not recovered from him. Thus, it is submitted that the petitioner is not entitled to any relief.

Having regard to the facts and circumstances of the case, we find that not only the present petition is not maintainable but the same is also devoid of any merit, hence the same is dismissed. Nonetheless, we deem it fit and appropriate to grant one more opportunity to the petitioner, in the interest of justice, to file objection under Section 9 of the Act, 1914 within



a period of two weeks from today. We further direct the Certificate Officer to pass the final order under Section 10 the Act, 1914, within a period of four weeks from today even in case no objection is filed by the petitioner within a period of two weeks from today.

It is clarified that in case final order has already been passed by the Certificate Officer, the petitioner would be at liberty to file appropriate appeal under Section 60 of the Act, 1914.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	17.05.2022
Transmission Date	

