

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5024 of 2021

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Chief Manager, Bank of India, Bhagalpur Branch, Dustrict-Bhagalpur.

... .. Petitioner

Versus

1. The Certificate Officer, Bhagalpur.
2. District Welfare Officer, Bhagalpur.
3. Srijan Mahila Vikash Sahyog Samiti, Bhagalpur.

... .. Respondent

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Appearance :

For the Petitioner	:	Mr.Ajay Kumar Sinha, Senior Advocate Mr. Sachindra Kumar Tiwary, Advocate
For the Respondents	:	Ms. Kumari Amrita, GP-3

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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)

4 24-01-2022 This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

Heard the Mr. Ajay Kr. Sinha, learned Senior Counsel appearing on behalf of the petitioner assisted by Sri Sachindra Kr. Tiwary and Ms. Kumari Amrita, learned G.P.-3. for the respondent State of Bihar.

The petitioner, who is the Chief Manager, Bank of India, Bhagalpur Branch, Bhagalpur, has filed the present writ application seeking quashing of the entire Certificate Case No.04 of 2019-20 pending before the District Welfare Officer, Bhagalpur (Respondent No.2). The petitioner's objection filed



under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) has been rejected by an order dated 24.02.2020, which is also being assailed in the present writ application.

Evidently, this writ petition has been filed nearly one year after rejection of the objection on 24.02.2020.

Mr. Ajay Kumar Sinha, learned Senior Counsel appearing on behalf of the petitioner has argued that the certificate proceeding is incompetent for the reason that the amount sought to be recovered is not a public demand and that the certificate proceeding has been initiated beyond the period of limitation. Further, no satisfaction has been recorded by the Certificate Officer as regards the amount sought to be recovered. Further, since a criminal case is being investigated by the Central Bureau of Investigation in relation to the same transaction, the certificate proceeding, before conclusion of the criminal case, ought not to have been initiated.

None of the grounds, which are being raised in the present writ application to assail initiation of the certificate case, except the ground of pendency of the criminal case was taken by the petitioner in its objection under Section 9 of the Act.

In our view, the rejection of the objection under



Section 9 of the Act by the Certificate Officer, Bhagalpur, cannot be said to be suffering from any legal infirmity in the absence of any ground taken before him other than the ground of pendency of a criminal case.

When the matter was earlier heard by this Court on 07.09.2021, the submission made on behalf of the respondent-State to the effect that issue of jurisdiction could be raised even in appeal, has been noted.

In our considered view, the writ application, at this stage, cannot be entertained, which is accordingly dismissed.

It goes without saying that the petitioner shall be at liberty to seek any remedy as may be available to him under law.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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