

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19966 of 2019

Binod Baitha, Son of Ram Naresh Baitha @ Naresh Baitha, Resident of
Village- Jagdish Pur, P.S.- Tariyani, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary Home Department, Government of Bihar, Patna.
3. The Managing Director Bihar State Schedule Cast Cooperative Development Corporation Ltd., Officers Hostel, Block-A, Baily Road, Patna.
4. The Secretary, Bihar State Schedule Cast Cooperative Development Corporation Ltd., Officers Hostel, Block A, Baily Road, Patna.
5. The State Executive Officer, Bihar State Schedule Cast, Cooperative Development Corporation Ltd., Officers Hostel, Block-A, Baily Road, Patna.
6. The District Executive Officer, Bihar State Schedule Cast Cooperative Development Corporation, Branch Sitamarhi at Sheohar.
7. The Deputy Collector, Land Reform-cum-Certificate Officer, Sheohar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vijay Shankar Shrivastava, Advocate

For the Respondent/s : Mr. Md. N.H. Khan, SC 1

For the Respondent No. 6 Mr. Ranjeet Kumar Pandey, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2022

Petitioner has prayed for following relief (s) : -

“i) For issuance of a writ in the nature of certiorari for quashing the certificate case no. 36/18-19 including the initiation of the certificate case No 36/18-19 as well as application for certificate under Section 5 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Form-2) issued under the



signature of the District Executive Officer, Bihar State Schedule Cast Cooperative Development Corporation, Branch Sitamarhi at Sheohar as contained in Annexure-1 to the writ petition, the Public Demand Certificate under Section 4 and 6 of the Bihar and Orissa Public Demand Recovery Act, (Form 1) issued without any signature of any authority including the Deputy Collector Land Reform-cum-Certificate Officer, Sheohar as contained in Annexure-2 to the writ petition and notice dated 13.9.2018 issued under the signature of Deputy Collector, Land Reform-Cum-Certificate Officer, Sheohar (Respondent No. 7) in Certificate Case No. 36/2018-19 as contend in Annexure-3 to this writ petition whereby and whereunder a demand of Rs. 9,99,391/-with interest till 11-3-2016 has been made from the petitioner.

ii. For issuance of a writ in the nature of Certiorari for quashing of the application for certificate under Section 5 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Form 2) issued under the signature of District Executive Officer, Bihar State Schedule Cast Cooperative Development Corporation, Branch Sitamarhi at Sheohar (Respondent no. 6) as contained in Annexure-1 to this writ petition whereby and whereunder a demand of Rs. 9,99,391/-with interest till 11-3-2016 has been made from the petitioner.

iii. For issuance of a writ in the nature of Certiorari for quashing of the Public Demand Certificate under Section 4 & 6 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Form 1) issued without any signature of any authority or the Deputy Collector, Land Reform-Cum- Certificate Officer, Sheohar (Respondent no. 7) as contend in Annexure-2 to this writ petition whereby and where under a demand of Rs. 9,99,391/-with interest till 11-3-2016 has been made from the petitioner.

iv) For issuance of a writ in the nature of certiorari quashing the notice dated 13.9.2018 issued under the signature of Deputy Collector, Land reform-Cum-Certificate Officer, Sheohar (Respondent No. 7) in Certificate Case No. 36/2018-19 as contained in Annexure-2 to this writ petition whereby and where under a demand notice of Rs. 9,99,391/- has



been made under Section 7 of the Bihar & Orissa Public Demand Act by the Deputy Collector, Land reform-Cum-Certificate Officer, Sheohar (Respondent No. 7) to this writ petition fixing the date on 25.09.2018 for appearance of the petitioner for show cause or deposit the total amount with the interest otherwise the process for attachment of the property and arrest of warrant will be issued for recoverable dues amount. The notice further contended that no further opportunity will be given for filing show cause and the petitioner is liable for punishment.

v) To grant any other relief or reliefs for which the petitioner is entitled from the facts and circumstances of the case.”

Proceedings under the provisions of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) stands initiated against the petitioner for non-payment of Rs. 9,99,391/- plus interest accrued thereupon with effect from 11.03.2016.

Having heard learned counsel for the parties, we are of the considered view that the present petition needs to be allowed only for the reason that the certificate issued by the Certificate Officer (Annexure-2 Page 17) is unsigned and undated.

We clarify that only this ground alone has weighed with us in allowing the petition and all other issues, be it on fact and law, are left open to be adjudicated in the proceedings to be initiated afresh under the said Act.



We direct the Certificate Officer to issue a fresh certificate duly signed and dated.

Learned counsel for the petitioner states that petitioner is ready and willing to co-operate in the proceedings, in accordance with law.

In fact, petitioner volunteers to make himself available in the office of the Respondent No. 7, namely, The Deputy Collector, Land Reform-cum-Certificate Officer, Sheohar for fixing a date, when the duly authenticated copy of the certificate shall be handed over to the petitioner along with notice under Section 7, as stipulated under the said Act, enabling the petitioner to file objections thereto.

Equally, we quash the requisition for certificate, as stipulated under Section 6 of the Act, though the same bears the signature but does not bear the date on which the requisition was sent. Also, from Annexure-2, one cannot make out the date on which such a requisition was sent.

Consequently, communication dated 13.09.2018 (Annexure-3, Page 18) calling upon the petitioner to deposit amount is also quashed and set aside.

We direct the Respondent No. 6, namely, The District Executive Officer, Bihar State Schedule Cast



Cooperative Development Corporation, Branch Sitamarhi at Sheohar, to forthwith and not later than two weeks from today, issue a fresh requisition, as stipulated under Section 5 of the Act, whereafter the Certificate Officer shall issue a fresh certificate, as stipulated under Sections 4 and 6 of the Act.

Learned counsel for the respondents states that post issuance of the certificate by the Certificate Officer, petitioner has deposited the amount.

Well, all this petitioner can place before the Certificate Officer.

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

(a) Petitioner shall appear in the office of the appropriate authority on 19.12.2022 along with a copy of this order, for fixing a date, when the duly authenticated copy of the certificate shall be handed over to the petitioner along with notice under Section 7, as stipulated under the said Act, enabling the petitioner to file objections thereto.

(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 three 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) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

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

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

(g) 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;

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

(i) 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)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.12.2022
Transmission Date	

