

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1578 of 2018

In
Civil Writ Jurisdiction Case No.24175 of 2013

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1. The Administrator, Bihar State Road Transport Corporation, Sultan Palace,
Bir Chand Patel Path, Patna.

... .. Appellant/s

Versus

1. Sachchidanand Rai, Director, Eden Transport Private Limited, Son of Late
Jaleshwar Rai, Flat No. 7, Third Floor, Louden Street, Kolkata-700017,
Presently residing at Flat No. 202 Maa Sambhavi Apartment, Behind PNB
Bank, Aashiyana More, Raja Bazar, P.S. - Shashtri Nagar, District- Patna,
800014.
2. State of Bihar, through, Secretary, Department of Transport Government of
Bihar, Patna.
3. Joint Commissioner-Cum-Secretary, Regional Transport Authority, Patna-
Cum-Certificate Officer, Patna.
4. Bihar State Road Transport Corporation, through its Managing Director,
Sultan Palace, Bir Chand Patel Path, Patna.
5. Chief Mechanical Engineer, Bihar State Road Transport Corporation, Sultan
Palace, Bir Chand Patel Path, Patna

... .. Respondent/s

with
Letters Patent Appeal No. 1577 of 2018
In
Civil Writ Jurisdiction Case No.24203 of 2013

The Administrator, Bihar State Road Transport Corporation, Sultan Palace,
Bir Chand Patel Path, Patna.

... .. Appellant/s

Versus

1. Sachchidanand Rai, Director, Eden Transport Private Limited, Son of Late
Jaleshwar Rai, Flat No.7, Third Floor, Louden Street, Kolkata-700017,
Presently residing at Flat No.202, Maa Sambhavi Apartment, Behind PNB
Bank, Aashiyana More, Raja Bazar, P.S.-Shastri Nagar, District Patna-
800014.
2. State of Bihar, through, Secretary, Department of Transport Government of
Bihar, Patna.
3. Joint Commissioner-Cum-Secretary, Regional Transport Authority, Patna-
Cum-Certificate Officer, Patna.
4. Bihar State Road Transport Corporation, through its Managing Director,



Sultan Palace, Bir Chand Patel Path, Patna.

5. Chief Mechanical Engineer, Bihar State Road Transport Corporation, Sultan Palace, Bir Chand Patel Path, Patna.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1578 of 2018)

For the Appellant/s : Mr. Mukul Sinha, Advocate
Mrs. Jahan Ara, Advocate
For the Respondent/s : Mr. Ujjawal Bhushan, Advocate
Mr. Abhinav Shrivastava, Advocate
Mr. Raushan, Advocate

(In Letters Patent Appeal No. 1577 of 2018)

For the Appellant/s : Mr. Mukul Sinha, Advocate
Mrs. Jahan Ara, Advocate
For the Respondent/s : Mr. Ujjawal Bhushan, Advocate
Mr. Abhinav Shrivastava, Advocate
Mr. Raushan, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ARUN KUMAR JHA)

Date : 17-04-2023

In these two LPAs, the issues are common and interrelated, as such, they have been heard together and are being disposed of by this common judgment.

2. Heard learned counsel for the appellants and learned counsel for the respondents.

3. L.P.A. Nos. 1578 of 2018 and 1577 of 2018 are directed against the judgment dated 18.09.2018 passed in CWJC Nos. 24175 of 2013 and judgment dated 18.09.2018 passed in 24203 of 2013, respectively by the learned Single Judge of this Court whereby and whereunder the civil writ petitions filed by



the petitioner/respondent herein have been allowed.

4. The writ petitioner/respondent herein filed CWJC No.24175 of 2013 claiming following reliefs :

“(i) To issue a writ in the nature of certiorari for quashing the entire certificate proceedings including consequential orders arising out of Certificate Case No. 08/2011-12 pending before the Secretary, RTA and quashing the notice issued under Section 7 of the Bihar & Orissa Public Demands Recovery Act, 1914 whereby the petitioner is coerced for the payment of Rs. 36,40,995/- as being alleged dues and further quashing of warrant of attachment of moveable property in execution of decree for money dated 23.11.2013 arising out of Certificate Case No. 08/2011-12 issued under the signature of Certificate Officer and pursuant to thereto the authorities attached buses of the petitioner company on 29.11.2013.

(ii) To issue writ in the nature of mandamus commanding the respondents not to take any coercive action till the pendency of the Miscellaneous Application filed under Section 34 of the Arbitration and Conciliation Act, 1996 which is pending before the Court of learned Sub Judge I, Patna.

(iii) To any other relief or reliefs to which the petitioner is found to be entitled in the facts and circumstances of the case.”

5. The writ petitioner/respondent herein filed CWJC No.24203 of 2013 claiming following reliefs :-

“(i) To issue a writ in the nature of certiorari for quashing the entire certificate



proceedings including consequential orders arising out of Certificate Case No. 07/2011-12 pending before the Secretary, RTA and quashing the notice issued under Section 7 of the Bihar & Orissa Public Demands Recovery Act, 1914 whereby the petitioner is coerced for the payment of Rs. 71,20,976/- as being alleged dues and further quashing of warrant of attachment of moveable property in execution of decree for money dated 23.11.2013 arising out of Certificate Case No. 07/2011-12 issued under the signature of Certificate Officer and pursuant to thereto the authorities attached nine buses of the petitioner company on 29.11.2013.

(ii) To issue writ in the nature of mandamus commanding the respondents not to take any coercive action till the pendency of the Miscellaneous Application filed under Section 34 of the Arbitration and Conciliation Act, 1996 which is pending before the Court of learned Sub Judge I, Patna.

(iii) To any other relief or reliefs to which the petitioner is found to be entitled in the facts and circumstances of the case.”

6. The facts of CWJC No.24175 of 2013, as it appears from the record, may be summarized as follows :-

The Bihar State Road Transport Corporation (hereinafter referred to as ‘the Corporation’) issued a notice inviting tender for operating buses on several routes of Patna Urban Area under PPP Mode. The last date of submission of tender was 17.01.2011, which was subsequently extended till 03.02.2011. The writ petitioner applied for operation of 70 Non



AC buses and submitted EMD of Rs.7,00,000/- as per the tender @ Rs.10,000/-per bus. The Corporation issued a LOI (Ref: 1259) in favour of the writ petitioner to operate 70 Non AC buses in Patna Urban Area. Thereafter, on 14.03.2011, an agreement was entered into between the writ petitioner and the Corporation. On 03.05.2011, the Corporation issued a LOI (Ref: 2500) in favour of the petitioner to operate 8 AC buses in Patna Urban Area on the same terms and conditions. Later on, the Corporation issued a letter dated 19.05.2011 addressed to its Divisional Manager to provide space for Ticket booking and bus stops to the petitioner for operation of 70 buses on 7 different routes of Patna Urban Area and also issued permits for 66 buses. The inauguration date of running of buses was fixed for 15.05.2011, however, buses could not start plying since 15.05.2011 as no permit was issued for their operation. In terms of the tender, Corporation provided the parking place on the monthly rent in Phulwarsharif Bus depot which was communicated to the petitioner vide letter no. 2260 dated 26.04.2011 and the petitioner was directed to deposits Rs 2 Lakhs as Security money. Thereafter, an additional agreement was entered into which replaced clause 27(b) of the earlier agreement dated 14.3.2011 incorporating therein that on failure



to deposit the royalty in time, liquidated damages @ 0.5% on the payable amount per day shall be paid to the Corporation. This agreement was made effective from 14.03.2011. The plying of the city buses started on receipts of the permits, but instead of releasing the subsidy in terms of clause 31 of the agreement, Corporation sent a letter dated 21.11.2011 indicting therein that subsidy of Rs. 63 lacs might be released to the petitioner on deposit of Bank Guarantee. It also indicated that there was a due of Rs. 36,69,198/- including the late fine up-to 15.11.2011 and on failure to pay the same by 23.11.2011, the said amount would be adjusted against the subsidy. Along with the letter, the calculation of the alleged due had been annexed with the letter. Accordingly, the petitioner deposited the amount on 22.06.2011 for the period from 22.06.2011 to 25.06.2011 and then on 02.07.2011. Thereafter, when dispute arose over release of subsidy and wrong calculation of alleged royalty, as such, the petitioner sent letter on 26.11.2011 requesting therein for release of subsidy of 66 buses and as per agreement, the revenue was to be adjusted in 3 years in the installments and also submitted that buses did not start plying since 16.5.2011 as there was no permit and, thus, calculation of royalty from 16.05.2011 was wrong and it also submitted that imposition of late fine was wrong as fault



was on part of the Corporation. Thereafter, the Corporation replied vide memo no 8045 dated 05.12.2011 indicating therein that petitioner was entitled to subsidy of only 63 buses and was liable to pay revenue in terms of the agreement. Thereafter, vide letter dated 09.12.2011, the petitioner replied that two buses were burnt by unruly element on 12.07.2011 with due information to the Corporation and 2 buses were provided to the Corporation for replacement, but permit has not yet been issued against the replaced bus and these two buses were lying idle for 68 days. One bus met with an accident on 03.08.2011 and was seized which started operation from 07.11.2011. With respect to 4 buses, permits were not issued to the petitioner in terms of the agreement. Accordingly the petitioner was entitled to subsidy of 66 buses. The petitioner also indicted that the Administrator of the Corporation had agreed to adjust the alleged dues in 3 years but if he withdrew from its promise then rest amount should be deposited on 10.12.2011. It was thus requested to release the subsidy and petitioner assured to pay the alleged due. In view of idling of 4 (four) buses on account of non-supply of permits in terms of agreement by the Corporation, the petitioner's company suffered a huge loss. Vide letter dated 21.12.2011, the petitioner pointed out the problems in the operation of city buses



and requested to sort out the same as per meeting dated 17.6.2011 and vide letter no. 11131 dated 23.12.2011, the Corporation issued a letter indicating therein that petitioner might receive the cheque of Rs 26,30,802/- on deposit of Bank Guarantee of Rs. 63 Lacs as the royalty along with late fine amounting to Rs 36,69,198/- has been adjusted against subsidy of Rs. 63 Lacs. On 03.01.2012, the petitioner received notice under Section 7 of the P.D.R. Act in Certificate Case No. 8/2011-12 that petitioner was liable to pay Rs. 37,12,698/-. Thereafter, on 04.05.2012, the petitioner filed a review petition under Section 63 of the Act before the learned Certificate Officer, which was rejected vide order dated 25.05.2012. Against the action of the respondents, the petitioner preferred CWJC No.24175 of 2013 before this Court, which was allowed by the learned Single Judge vide judgment dated 18.09.2018. Being aggrieved by the aforesaid judgment, the Corporation filed the present LPA No.1578 of 2018 before this Court.

7. The facts of CWJC No.24203 of 2013, as it appears from the record, may be summarized as follows :-

The Corporation issued a notice inviting tender for operating buses on nationalized routes under the subsidy scheme of BSRTC under the PPP Mode. The writ petitioner applied for



operation of 20 buses in between Patna to Siwan, 35 buses in between Patna to Chapra, 50 buses in between Patna to Muzaffarpur on payment of 11% of the seating capacity of the operating bus on the due date as per terms of the tender. Accordingly, the Corporation vide letter no.3999 dated 25.06.2010 issued letters offering to operate buses on the aforesaid terms. Ultimately, on 06.07.2010, an agreement was entered into between the writ petitioner and the Corporation. Thereafter, an additional agreement was entered into between the writ petitioner and the Corporation on 02.07.2011 incorporating therein a further clause of payment of liquidated damage @ 0.5% per day. In terms of the agreement, the writ petitioner continued to pay royalty as demanded by Corporation for the period from 22.01.2011 to 31.04.2011. Thereafter, a controversy arose regarding non-performance/late performance of the part of the agreement by the Corporation. However, the writ petitioner continued to pay the royalty in terms of clause 26(a) of the agreement in time. But all of a sudden, the Corporation submitted a bill on 08.12.2011 directing the writ petitioner to pay the alleged dues with respect to Patna-Siwan route for 20 buses and demanded Rs.43,28,818/- as revenue dues for the period from 15.01.2011 to 19.11.2011 and also late



dues amounting to Rs.29,06,602.26, totaling Rs.72,35,420.26. Further demand was raised for revenue of 20 buses plying between Patna to Chapra route for the period from 08.05.2011 to 19.11.2011 amounting to Rs.30,60,368/- as revenue dues and Rs.16,50,586.24 as late dues then total amounting to Rs.47,10,954.24. On 03.01.2012, the petitioner received notice under Section 7 of the P.D.R. Act in Certificate Case No. 7/2011-12 indicating therein that petitioner was liable to pay Rs. 1,20,89,234/- Thereafter, on 04.05.2012, the petitioner filed a review petition under Section 63 of the Act before the learned Certificate Officer, which was rejected vide order dated 25.05.2012. The petitioner challenged the action of the respondent by filing CWJC No.24203 of 2013 before this Court, which was allowed by the learned Single Judge vide judgment dated 18.09.2018. Being aggrieved by the aforesaid judgment, the Corporation filed the present LPA No.1577 of 2018 before this Court.

8. The learned counsel appearing on behalf of appellant-Corporation submitted that the writ-petitioner-respondent herein entered into agreement in the capacity of Director of Eden Transport. But, it has not been mentioned anywhere that the company is duly incorporated under the



Companies Act. The learned counsel further submitted that under the terms of agreement, writ petitioner was allowed to ply his buses on different nationalized routes on seat sharing basis @ 11% of the total capacity of each bus, which was to be deposited weekly, in advance (i.e. up to Saturdays) each week previous to the preceding week of operation. In case of default, the operator was liable to pay liquidated damages to the Corporation @ 0.5% per day on the amount payable. The writ petitioner did pay the required amount for few month, but stopped payment after 3-4 months, without any reason. In spite of so many reminders, he did not pay any amount. At the same time, he continued to ply his buses and was earning. A substantial amount became due against the writ petitioner. The Corporation raised demand. The writ petitioner filed the present writ petition, wherein he gave an undertaking before this Court to pay the admitted amount provided that a fresh calculation was done. By order dated. 03.03.2014, this Court directed the Corporation to re-calculate the dues. The due amount was recalculated and the writ petitioner duly participated during recalculation process. By letter dated 21.09.2015, the writ petitioner accepted the recalculation. Even, this amount has not been paid by him. It has nowhere been mentioned that the



company is duly incorporated under the Companies Act. The learned Single Judge did not go into any of these issues and quashed the entire certificate proceeding on the solitary ground which does not even exist. The learned counsel further submitted that the writ petitioner-respondent herein had statutory alternative remedy under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914. The learned counsel further submitted that agreement dated 06.07.2010 has been entered into in a personal capacity and agreement dated 14.03.2011 has been entered into in the capacity of Director. The learned counsel further submitted that the writ petitioner-respondent herein has not apprised in writ proceedings or in the counter affidavit that it was a company registered under the Companies Act or not.

9. On the other hand, the learned counsel appearing on behalf of the respondent Sachchidanand Rai in LPA No. 1578 of 2018 submitted that the writ petitioner invoked the arbitration clause 37 of the Agreement dated 14.03.2011 by filing Arbitration Case No 2 of 2012 on 04.06.2012 before the Secretary, Department of Transport. Government of Bihar, Patna who was the sole Arbitrator under the agreement. Initially, the learned Arbitrator impressed upon both the parties to resolve



their disputes amicably through mutual negotiations but negotiation for settlement of disputes could not be materialized. The learned counsel further submitted that the learned Arbitrator without considering the documents and the contents raised by the petitioner, decided the issue in favour of the Corporation and passed the award on 18.12.2012. Being aggrieved by the order of award dated 18.12.2012, the writ petitioner filed a petition dated 31.12.2012 for rehearing the matter on various grounds. The learned Arbitrator heard the matter on 11.02.2013 and after hearing the parties the order was reserved. The learned Arbitrator termed the petition filed by the writ petitioner on 31.12.2012 as Review Petition and, thereafter, the learned Arbitrator rejected the same without considering the issues raised by the petitioner. The said order of rejection was passed on 19.02.2013. Being aggrieved by the order of award and others, the writ petitioner preferred a Miscellaneous Application bearing Misc. Case no 15 of 2013 arising out of Arbitration Case No 2 of 2012 under the provisions of Section 34 of Arbitration and Conciliation Act 1996. Thereafter, a notice under section 7 of Bihar and Orissa Public Demand Recovery Act 1914 in the case no. 08/2011-13 was issued to the writ petitioner for the payment of due of Rs. 36,40,995.00 on



27.07.2013. After receiving the same, the writ petitioner apprised the Certificate Officer about the award dated 18.12.2012 made by the learned Arbitrator and against the said award, the writ petitioner preferred Misc. Case No 15 of 2013 for setting aside the said award. But all of a sudden, on 29.11.2013, the Corporation served warrant of attachment upon the respondent-Company and seized 9 buses of the writ petitioner. Subsequently, vide letter dated 10.03.2017, the agreement dated 14.03.2011 was terminated by the Corporation. Thereafter, a fresh certificate case bearing no.174/18-19 was initiated by the Corporation which is pending before the Regional Transport Commissioner, Patna Division, Patna in relation to the same agreement dated 14.03.2011, which has been challenged by the respondent Company by filing CWJC No.22648 of 2019 before this Court. The learned counsel further submitted that once the parties have acquiesced to the forum of the arbitration then it is not allowed to either of the parties to approbate and reprobate at the same time. Meaning thereby, once the parties have gone for arbitration and thereafter the aggrieved party i.e. the writ petitioner has made an application under Section 34 of the Act to set aside the arbitral award then the Corporation cannot assume any jurisdiction and power to go



for certificate proceeding to realize the amount as alleged as dues amount. Assuming and not admitting the same, for the sake of argument, even if the award has to be enforced then that can only be done under execution proceeding in a proper execution suit and not by the method as the appellants have resorted to in the present case. The learned counsel further submitted that the proper recourse available to the Corporation in the given facts and circumstances of the case is that the Corporation should approach the Civil Court of competent jurisdiction. The Corporation cannot take any action which is not permissible in the law. When the Corporation has acquiesced to the jurisdiction of the Arbitration then the Corporation must act in conformity with the provisions of the Arbitration and Conciliation Act, 1996. Any other mode is not permissible both in law and facts. The learned counsel further submitted that the Corporation cannot act in whimsical manner. The Corporation in any event, is not permitted to take recourse to the forum of certificate proceeding as the same is illegal, arbitrary and wholly without jurisdiction. The learned counsel further submitted that the present certificate proceeding and the alleged demand made by the Government has been modified from the earlier demand of Rs. 3712698/- to the present demand of Rs. 3640995/-, The said



modification in the alleged demand and consequent illegal certificate proceeding has been arbitrarily done on the basis of the award made by the learned Arbitrator. The learned counsel further submitted that the alleged Certificate Officer has acted illegally in passing the impugned order without determining the demand as mandated under Section 18 of the Act and without affording an opportunity of hearing to the writ petitioner in violation of principles of natural justices as also Section 10 of the Act. The learned counsel further submitted that Certificate Officer acted without jurisdiction in issuing notice under Section 7 and passing the impugned order without examining whether the requisition filed is a public demand or not. Thus, the learned counsel submitted that impugned order is illegal and arbitrary as it shows non application of mind and non reference of any of the point raised by the petitioner under Section 9 of the Act.

10. While reiterating the submission made on behalf of the writ petitioner in LPA No. 1578 of 2018, the learned counsel for the respondent Sachchidanand Rai in LPA No. 1577 of 2018 submitted that the writ petitioner invoked the arbitration clause 37 of the Agreement dated 06.07.2010 by filing Arbitration Case No 3 of 2012 on 13.06.2012 before the



Secretary, Department of Transport. Government of Bihar, Patna who was the sole Arbitrator under the agreement. The learned counsel further submitted that the learned Arbitrator without considering the documents and the contents raised by the petitioner, decided the issue in favour of the Corporation and made the award on 18.12.2012. Being aggrieved by the order of award dated 18.12.2012, the writ petitioner filed a petition dated 31.12.2012 for rehearing the matter on various grounds. The learned Arbitrator termed the petition filed by the writ petitioner on 31.12.2012 as Review Petition and, thereafter, the learned Arbitrator rejected the same without considering the issues raised by the writ petitioner. The said order of rejection was passed on 19.02.2013. Being aggrieved by the order of award and others, the writ petitioner preferred a Miscellaneous Application bearing Misc. Case no 16 of 2013 arising out of Arbitration Case No 3 of 2012 under the provisions of Section 34 of Arbitration and Conciliation Act 1996. Thereafter, a notice under section 7 of Bihar and Orissa Public Demand Recovery Act 1914 in the case no. 07/2011-13 was issued to the writ petitioner for the payment of due of Rs. 71,20,976/- on 27.07.2013. After receiving the same, the writ petitioner apprised the Certificate Officer about the award dated



18.12.2012 made by the learned Arbitrator and against the said award, the writ petitioner preferred Misc. Case No 16 of 2013 for setting aside the said award. But all of a sudden, on 29.11.2013, the Corporation served warrant of attachment upon the respondent-Company and seized 9 buses of the writ petitioner. Subsequently, vide letter dated 10.03.2017, the agreement dated 14.03.2011 was terminated by the Corporation. Thereafter, a fresh certificate case bearing no.175/18-19 was initiated by the Corporation which is pending before the Regional Transport Commissioner, Patna Division, Patna in relation to the same agreement dated 06.07.2010, which has been challenged by the writ petitioner by filing CWJC No.22441 of 2019 before this Court. Thus, the learned counsel submitted that impugned order is illegal and arbitrary as it shows non application of mind and non reference of any of the point raised by the petitioner under Section 9 of the Act.

11. Having considered the material available on record and further considering the rival submissions, it is apparent that the writ petitioner-respondent herein has challenged the action of the appellant on various grounds which have been discussed hereinabove. However, while deciding the writ petition bearing CWJC No. 24175 of 2013, the learned Single Judge left open



the other issues and proceeded to dispose of the matter on the sole ground as to whether the writ petitioner-respondent herein being Director in the company namely, Eden Transport Private Limited could be fastened with liability which arose on account of alleged default of the company? The learned Single Judge held that in the light of the decision of this Court in the case of ***Kanhaiya Lal Vs. The State of Bihar & Ors.*** reported in **2002 (2) PLJR 553**, the writ petitioner-respondent herein could not be fastened with liability of the company in which he has been working as a Director/Managing Director.

12. In CWJC No.24175 of 2013, the agreement dated 14.03.2011 (Annexure-3) clearly shows that the petitioner put his signature on the agreement in the capacity of Director of company namely, Eden Transport Private Limited and the agreement was entered into between the Bihar State Road Transport Corporation and Eden Transport Pvt. Ltd. So, in terms of the decision in the case of ***Kanhaiya Lal (supra)***, the petitioner being the Director could not be held accountable for all liabilities of his company since he cannot be personally held liable for any amount which is recoverable from the company.

13. So, without going into further merits of the case and contentions raised on behalf of either of the parties, we do



not find any infirmity in the order of the learned Single Judge passed in CWJC No.24175 of 2013 and hence, the same is upheld.

14. Accordingly, L.P.A. No.1578 of 2018 stands dismissed.

15. In CWJC No.24203 of 2013, it is apparent that the writ petitioner-respondent herein entered into the agreement with the appellant on 06.07.2010 in his individual capacity as is obvious from the copy of the agreement annexed with the writ petition. If the writ petitioner-respondent herein has entered into the agreement with the appellant in his individual capacity, naturally any liability arising out of the agreement between the two sides would be the liability of the writ petitioner-respondent herein. The writ petitioner-respondent herein has failed to bring on record any document to show that he has entered into the agreement with the appellant on behalf of company. In this regard, it is pertinent to mention here that vide order dated 24.03.2023, this Court has passed the following order :

“Heard the matter at length.

Learned counsel for the appellants in support of the present Letters Patent Appeal has contended that respondents-petitioners had statutory alternative remedy under Section 9 of the Bihar & Orissa Public Demands Recovery



Act, 1914. It is submitted that agreement dated 06.07.2010 has been entered into in a personal capacity and agreement dated 14.03.2011 is in the capacity of Director.

*In this regard, it is submitted that respondents-petitioners have not apprised in writ proceedings or in the counter affidavit to the extent that it was a company registered under the Companies Act or not? He has also relied on Para 6 of the judgment passed in **Kanhaiya Lal Vs. The State of Bihar and Ors.** reported in 2002 (2) PLJR 553.*

At this stage, learned counsel for the respondents-petitioners submitted that there was no occasion to produce copy of the certificate of respondents-petitioners' company which was registered under the Companies Act. Therefore, respondents-petitioners are at liberty to produce registration of the company under the Companies Act. Such document should be placed on record before the next date of hearing.

Re-list this matter on 17.04.2023”.

16. But the writ petitioner-respondent did not furnish any document to the effect that he has been acting on behalf of any company. So, the learned Single Judge erred while allowing CWJC No.24203 of 2013 by holding that the petitioner could not be fastened with the liability as he has been discharging his function as the Director/Managing Director of the company and further held that the certificate proceeding could not take place



for recovery of the certificate amount against the petitioner who happens to be the Managing Director of the company namely, Eden Transport Private Limited. However, in absence of documents to this effect, the order of learned Single Judge is not sustainable and the same is set aside. At the same time a number of disputed issues have been raised by the parties which cannot be looked into by this Court in its writ jurisdiction.

17. Since the learned Single Judge has passed the impugned judgment without entering into the other contentions of the petitioner, it would be appropriate to give opportunity to the parties to raise all their contentions before the Certificate Officer since certificate proceeding in Certificate Case No.07/2011-12 stands revived on setting aside of the judgment dated 18.09.2018 of learned Single Judge passed in CWJC No.24203 of 2013.

18. Thus, the matter is remanded to the Certificate Officer for fresh consideration. The petitioner can file his detailed representation within one month from the date of receipt of copy of this judgment and the Certificate Officer would pass a reasoned order taking into consideration all aspects raised in the representation after hearing both the parties within two months from the date of filing of the representation.



19. Accordingly, L.P.A.No.1577 of 2018 stands
allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	04.05.2023
Transmission Date	NA

