IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4133 of 2020

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Shreeman Narayan Pandey @ Shriman Pandey Son of Rambyas Pandey, Resident of Village- Ramgarh, P.S. Ramgarh, District- Kaimur, Bhabua.

... ... Petitioner/s

Versus

1. The State of Bihar through District Transport Officer, District- Kaimur, Bhabua.
2. The Chief Secretary, Department of Transport , Government of Bihar, Patna.
3. The District Magistrate, Kaimur at Bhabua.
4. The Joint Commissioner Cum Secretary Cum Certificate Officer, Patna Division, Patna.
5. The Certificate Officer, Kaimur Bhabua, District- Kaimur.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Mishra, Adv.
For the Respondent/s : Mr. Raghwendra Kumar, SC-22
: Mr. Vikramdit, AC to SC-22

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

6 23-02-2024 Heard learned counsel for the petitioner and learned appearing for the respondents.

1. The present writ application has been filed for quashing the entire proceeding of Certificate Case No. 50/10-11 initiated against the petitioner for a demand of Rs. 6,88,247/- as well as a warrant of arrest dated 20.08.2019 issued by the Joint Transport Commissioner -cum- Secretary Regional Transport Tribunal, Patna -cum- Certificate Officer.

2. Mr. Pandey, learned counsel appearing for the

petitioner submits that a certificate to the tune of Rs. 6,88,247/- (Six lakhs eighty eighty thousand two hundred forty seven only) including the penalty has been issued by the learned Certificate Officer without serving a notice upon the petitioner under Section 7 of the **Bihar and Orrisa Public Demands Recovery Act, 1914** ***(For brevity the 'Act').***

3. The petitioner was registered owner of the Bus bearing registration No. BR-24P-1831, upon which there was a liability towards road tax of Rs. 6,88,247/- for the period 01.05.2002 to 31.08.2009 including the penalty as per the rules for which a requisition for recovery of the amount was sent by the District Transport Officer, Kaimur to the Certificate Officer. Accordingly, a Certificate, warrant of arrest along with attachment order was passed against the petitioner by the Certificate Officer.

4. Learned counsel submits that the Bus in question was sold by the petitioner on 23.11.2001 in favour of one Ashwini Kumar, Son of Shri Madan Prasad, Resident of village- Muhmdabad, P.S.-Kotwali, District- Gazipur for a consideration amount of Rs. 1,25,000/-.

5. On the other hand, learned counsel for the State

referring to Annexure-C annexed to the counter affidavit submits that a notice under Section 7 of the Act was served upon the petitioner which would be evident from the signature of the petitioner on Annexure-C i.e. Notice.

6. In reply, learned counsel for the petitioner submits that it is apparent from Annexure-3, which is order sheet drawn by the Certificate Officer, it has been recorded in the margin portion that service of notice upon the petitioner is awaited. No satisfaction has been recorded by the Certificate Officer in the Certificate proceeding bearing No. 40 of 2008-09 that notice has validly been served upon the petitioner or the petitioner has evaded the notice.

7. Having heard learned counsel for parties and taking into consideration the rival submissions made on their behalf, I am of the considered view that the petitioner should be given one opportunity to file his objection before the Certificate Officer under Section 9 of the Act within a period of four weeks from the date of this order. If such an objection is filed, the Certificate Officer shall consider the same in accordance with the law and shall dispose the objection of the petitioner by passing a speaking order within a period of two months from the date of filing of such

objection, after giving an opportunity of hearing to the petitioner, for which date shall be communicated to the petitioner.

8. Till the disposal of the objection filed by the petitioner, the Certificate and warrant of arrest along with attachment order passed in Certificate Case No. 50/10-11 shall be kept in abeyance.

(Anil Kumar Sinha, J)

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