

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4540 of 2023

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1. Krishna Devi W/o Late Uma Shankar Thakur, Resident of Village-Chhakiya, P.S. Tisiauta, Distt.- Vaishali.
 2. Sanjeev Kumar, S/o Late Uma Shankar Thakur, Resident of Village - Chhakiya, P.S. Tisiauta, Distt. - Vaishali.
 3. Rajeev Ranjan, S/o Late Uma Shankar Thakur, Resident of Village - Chhakiya, P.S. Tisiauta, Distt. - Vaishali.
 4. Naveen Kumar, S/o Late Uma Shankar Thakur, Resident of Village-Chhakiya, P.S. Tisiauta, Distt. - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate Cum Collector, Distt. - Aurangabad.
3. The Distt. - Supply Officer, Aurangabad.
4. The District Manager Food and Civil Supply Corporation Aurangabad.
5. The District Certificate Officer, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Adv.
	:	Mr. Abhinav Pandey, Adv.
	:	Mr. Kumud Ranjan, Adv.
For BSFC	:	Mr. Shailendra Kr. Singh, Adv.
	:	Mr. Utkarsh Utpal, Adv.
For the State	:	Mr. Arvind Ujjwal (Sc4)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

9 02-05-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

“I. For issuance of appropriate writ in the nature of certiorari for quashing certificate proceeding of certificate case No. 15/2013-14 (AnnexureP-1) dated 29.07.2013 by Respondent 5 initially initiated against husband petitioner no. 1 but after around nine years of



his death, notice issued to his legal heirs for recovery of the dues amounting to Rs. 27,04,433/-

II. For issuance of appropriate writ in the nature of certiorari for quashing letter dated 16.08.2022 (Annexure-P2) whereby recovery of Rupees 27,04,433/- from petitioners to ensure its deposition in the account of State Food Corporation, Aurangabad.

III. To any other relief or reliefs for which the petitioner is found to be entitled and Your Lordships may deem fit in the facts and circumstances of the case.”

3. Learned counsel for the petitioners has stated that the matter is squarely covered by the judgment of this Hon'ble Court in case of ***Lal Chand Panna Lal & Anr. Vs. The State of Bihar & Ors.*** reported in ***2007(4) PLJR 590*** and ***Prabhakar Tekriwal Vs. The State of Bihar & Ors.*** reported in ***2024(1) PLJR 622*** in wherein this Hon'ble Court has held as under;

“5. The only consideration in this particular case is as to whether the authorities are justified in initiating the action for recovery and the amount as public demand after a period of 10 years from the date of death of a dead person for the services rendered to him in person. Admittedly, the services which were rendered to the father of the petitioner were in the nature of personal services. i.e., that of providing personal Body Guards to the father of the petitioner. A coordinate Bench in CWJC No. 2317 of 2017 (Pawan Kumar Singh Vrs. State of Bihar & Ors.) has held



as under :

“Certificate procedure not to be used where there is any doubt of debtors liability,-Requiring-officers should bear in mind that the certificate procedure is intended only for the recovery of sums regarding which there is no doubt of the liability of the debtor. Cases in which the debtor is likely with some show of reason to deny his liability should be reported with a view to institution of civil suits. No such certificate shall be made in respect of any demand the recovery of which is barred by any law of limitation for the time being in force. In the case of rent due to Wards and Government estate the period of limitation depends upon the Tenancy Act applicable and is determined by Schedule III part I. of the Bihar Tenancy Act or Section 234 of the Chota Nagpur Tenancy Act, as the case may be. The period of limitation for certificate filed by the examiner of Local Account under the Local Fund Audit is three years from the date of the order of surcharge”, the Court held that where the liability of the petitioner has not been ascertained by any competent authority, it cannot be said that the petitioner is guilty of defalcation and that too to the amount as indicated above. The learned coordinate Bench clearly held that “Certificate proceedings are proceedings for recovery of ascertained dues. It is not a proceeding where the certificate officer is to act like a Civil Court and determine the liability. The liability is, prima facie,



predetermined and the proceeding are only for recovery of those predetermined liability.””

4. In this particular case as seen from the record, the initiation of the certificate proceedings are after a lapse of more than nine years from the date of death of the husband of the petitioner No. 1.

5. Admittedly, the period of limitation as prescribed under Section 11 of the Bihar & Orissa Public Demands Recovery Act, 1914 and also as per Article 120 of the Limitation Act, 1963 is only ninety days.

6. Having regard to the above settled legal position, the writ petition is allowed and notice before the certificate officers is quashed.

7. With the above direction, the present writ petition stands allowed.

(A. Abhishek Reddy, J)

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