

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4945 of 2016

=====

Sunil Kumar Singh S/o Sri Shambhu Sharan Singh Resident of vill- Alabalpur
Mahamdabad, PS Sarai , Po Dharhara, District Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary Department of Panchayat Raj,
Govt. of Bihar, Patna
2. The Collector Vaishali.
3. The District Certificate Officer, Vaishali.
4. The Block Development Officer, Bhagwanpur Vaishali.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Prakritita Sharma, Advocate
For the Respondent/s : Mr. Kinkar Kumar, SC 27

=====

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 22-11-2024

1. The petitioner has filed the instant application

for the following reliefs:

*“i. To issue a writ in the nature
of certiorari to quash the entire certificate
proceeding of Certificate Case No. 226 of
2014-15, pending before the respondent no.3.
Certificate Officer, Vaishali initiated at the
instance of Respondent No.5.*

*ii. To quash the certificate signed
and filed in the office of the respondent
certificate officer in contravention of
mandatory provision of sections 4 and 6 as
well as without recording satisfaction as
mandatorily required in Form -I leaving all the*



gaps and blanks vacant.

iii. To issue a writ in the nature of certiorari to quash the demand notice dated 4.10.2014 issued by the certificate officer, Vaishali purportedly under section 7 of the Bihar and Orissa Public Demand Recovery Act, 1914 in certificate no. 226 of 2014-15 for realization of Rs. 3,70,746/-.

iv. To grant leave to add, amend, modify or otherwise vary the grounds in support of this writ.

v. To grant such other relief or reliefs to which the petitioner may be found entitle in equity and/or in law by Your Lordships in the facts and circumstances of this case.”

2. At the outset, Learned counsel for petitioner contended that since this matter is squarely covered under the order dated 01.10.2024 passed in **CWJC No. 7365 of 2016 (Ashok Prasad Versus The State of Bihar & Ors.)** and order dated 11.07.2024 passed in **CWJC No. 9221 of 2016 (Raju Gupta Versus The State of Bihar & Ors.)**, this writ petition may also be disposed of on the same term and conditions. Learned counsel for the petitioner further draws attention of this Court on a judgment passed by a



Division Bench of this Court in **Nageshwar Prasad Singh Vs. Rai Bahadur Kashinath Singh (1958 BLJR 820)**. As regards the effect of a defective Certificate on the validity of the Certificate proceeding, the Division Bench of this Court in **Nageshwar Prasad Singh (supra)** has observed as follows:

“The Certificate-Officer must meticulously apply his mind to filing the Certificate and filling in the columns and blanks correctly and in appending his Certificate in the form prescribed, and that the filling in of the forms is a matter of substance and is imperative, to give the Certificate the force of a decree of court of law, and if it is found that the Certificate-Officer had not applied his mind at all and that some of the blank spaces were not filled up, or were incorrectly filled up, the document so prepared and filed is not a Certificate under the Public Demands Recovery Act. The Certificate proceedings are wholly invalid and the officer concerned acts without jurisdiction”

3. Heard the Learned counsel for the petitioner as well as the respondents.



4. Apart from it, the Learned counsel for the petitioner also raised the point of limitation and contended that the recovery is barred by limitation and relied on the decision of this Court passed in **CWJC No. 21332 of 2011 (Rabindra Mishra Vs. Land Development Bank & Ors)**.

5. It is a matter of fact, which cannot be decided by this Court, However, the petitioner is at liberty to raise his defence on the ground of limitation before the authority.

6. In view of the fact that this matter is squarely covered by the aforesaid judgments, in the totality of the circumstances, I am of the opinion that the Certificate issued in Form No. 1 signed by the District Manager of the BSFC and the Certificate Officer in the manner aforesaid is held to be invalid and is hereby quashed along with the notice under Section 7 of the Act issued in pursuance thereof. The matter is remitted to the Certificate Officer, Vaishali for issuance of a fresh Certificate as well as the notice under Section 7 of the Act and thereafter to proceed in the matter in accordance with law.

7. It is made clear that in the meantime, the



Certificate Officer, Vaishali, shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 226 of 2014-15.

8. With the aforesaid observations, this writ petition stands disposed of in light of the judgment passed in, **Ashok Prasad, Raju Gupta and Nageshwar Prasad Singh (supra)**.

9. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2024
Transmission Date	

