

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15968 of 2023

Quishar Raza @ Qaishar Raza S/o Late Abdul Matin, At present-R/o Village Lakshmipur, PO Mursanda, Block and PS-Falka, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Old Secretariat, Patna.
2. The Co-operative Department, Government of Bihar through its Additional Chief Secretary, 2nd Floor, Vikas Bhawan, New Secretariat, Patna-800015.
3. The District Cooperative Officer cum Certificate Officer, Katihar, Sahkar Bhawan, Manihari Road, Mirchaibari, Katihar-854105.
4. The Block Cooperative Officer, Block-Falka, District-Katihar-854114.
5. The Katihar District Central Cooperative Bank Limited through its Managing Director, Address-Sahkar Bhawan, Manihari Road, Mirchaibari, Katihar 854105.
6. The Managing Director, The Katihar District Central Cooperative Bank Limited Address-Sahkar Bhawan, Manihari Road, Mirchaibari, Katihar 854105.
7. The Primary Agriculture Credit Cooperative Society (PACCS), Panchayat-Pirmokam through its Chairman, Block-Falka, District-Katihar.
8. The Chairman, Primary Agriculture Credit Cooperative Society (PACCS), Panchayat-Morsanda, Block-Falka, District-Katihar.
9. Shiv Shakti Rice Mill through its Proprietor namely Ranjeet Kumar Mahto, Gender-Male, age-unknown, S/o Shree Narayan Prasad Mahto, Address-Gram-Makkipur, PO Baijnathpur Simariya, PS-Kodha, District-Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amit Narayan, Advocate
For the State	:	Mr. Uday Shankar Sharan Singh (Gp 19)
For the Bank	:	Mr. Satendra Kumar Dubey, Advocate
For Resp Nos 5 and 6	:	Mr. Diwanshu Kumar, Advocate

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

3 08-10-2024 Heard Mr. Amit Narayan, learned counsel appearing on behalf of the petitioner. The State is represented by GP 19.

2. The petitioner, who is the Chairman of the Primary Agriculture Credit Cooperative Society (hereinafter referred to



as 'the PACCS'), Panchayat Pirmokam, Block Falka in the district of Katihar, by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeks multiple reliefs, which are as follows:

"(a) For issuance of appropriate writ quashing order contained in Ref. No. 692 dated 18.05.2023 (Annexure 6) passed by the Managing Director, The Katihar District Central Cooperative Bank Limited (R-6) urging the Superintendent of Police, Katihar to further proceed against the petitioner after issuance of Distress Warrant against him with respect to Certificate Case No. 22/2017- 18 pending before the District Cooperative Officer, Katihar.

(b) For issuance of appropriate writ quashing the aforesaid Distress Warrant issued against the petitioner.

(c) For issuance of appropriate writ quashing order of R-6 contained in his Ref. No. 853 dated 09.09.2022 (Annexure 5) with respect to petitioner urging the



District Cooperative Officer, Katihar to further proceed against the petitioner in matter of aforesaid Certificate Case No. 22/2017-18;

(d) For issuance of appropriate direction/directions and/or writ/writs, order/orders, directing the respondents to release "No Objection Certificate" in favour of petitioner in light of aforesaid matter.

(e) For issuance of appropriate writ directing the concerned respondents to pay dues of Rs. 6,50,143/- with 12% Interest to the petitioner since its due date, as per agreement contained in Annexure 1.

(f) For issuance of appropriate writ directing the concerned respondents to pay to the petitioner for bonus and cost of bags.

(g) For any other relief and/or reliefs to which the petitioner may be found entitled in the facts and circumstances of the case."



3. After arguing at length, the learned counsel for the petitioner submits that at one hand, the petitioner has not been paid his due amount of Rs.6,50,143/-. On the other hand, the respondent no.6 has initiated a certificate case, bearing Certificate Case No. 22 of 2017-18.

4. He further submits that despite having been applied for certified copy of the certificate and the proceeding of the aforementioned certificate case, the respondent has not supplied the same and in absence thereof, the petitioner is unable to file proper objection. He next submits that while the application is still pending for supply of certified copy of certificate and the proceedings, in the meantime, the Certificate Officer, Katihar issued Distress Warrant against the petitioner contrary to all the provisions of Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as 'the PDR Act').

5. On the other hand, learned counsel for the State refuted the contention of the petitioner and submits that the Certificate proceeding is pending since 2017-18, but till date, the petitioner has neither entered his appearance nor filed any objection in terms of Section 9 of the PDR Act.

6. Having heard the submissions made on behalf of the parties and considering the nature of dispute, the petitioner



is directed to enter his appearance before the Certificate Officer within a period of two weeks' from today.

7. It is needless to observe that after the appearance of the petitioner in the Certificate proceeding, the Certificate Officer would be under obligation to provide the necessary documents, including, certificate and the certified copy of the proceeding within a period of two weeks thereafter and would also provide appropriate opportunity to file objection under Section 9 of the PDR Act.

8. Time without number, the Court has observed that any Distress Warrant or Warrant of Arrest is the last resort and it should not be issued in a casual manner. The Warrant of Arrest or Distress Warrant cannot be issued only on the ground that objection was not filed within the stipulated period. This Court further observed that in case the petitioner files his objection within the time allowed by the Certificate Officer, the same shall be considered by him in terms of Section 10 of the PDR Act and dispose of by a reasoned and speaking order preferably within a period of further four weeks.

9. Till disposal of the objection petition filed by the petitioner, the Certificate Officer shall not take any coercive step against the petitioner.



10. It is made clear that in case the petitioner fails to enter his appearance within the stipulated period, mentioned hereinabove, the Certificate Officer shall proceed further in accordance with law.

11. So far other reliefs are concerned, the petitioner is at liberty to file appropriate petition before the concerned authority.

12. Accordingly, the present writ application stands disposed of.

(A. Abhishek Reddy , J)

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