

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15900 of 2023

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Sangita Gupta W/o Sanjay Prasad Gupta, Proprietor of Yashashvi Mahila Udyog, Resident of Village- Hans Mahal, Hans Nagar, Near Kav Rever, P.S.- Bikramganj, District- Rohtas, Pin 802212, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home Department, Secretariat, Bihar, Patna.
2. The Branch Manager, Bank of India, Bikramganj, Rohtas, Bihar.
3. The Sub-Divisional Certificate Officer, Bikramganj, Rohtas.
4. The Officer-in-Charge, Bikramganj Police Station, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Maheshwar Prasad, Adv.
For SBI	:	Mr. Siddarth Harsh, Adv.
For the Respondent/s	:	Mr. Ruchikar Jha (Sc 8)

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

2 12-01-2024 Heard the learned counsels for the parties.

The present writ petition has been filed for the
following relief(s):-

“(a) For the issuance of writ in nature of certaria for quashing or set aside the proceeding of Certificate Case No. 02/2022-23, initiated by Sub Divisional Certificate Officer, Bikramganj (Respondent No.3) dated 05.01.2022 whereby and where under the said respondent authority in complete violation of law, without serving notice prescribed under section 7 and further without giving reasonable opportunity of hearing by way of filing show cause under section 9 of the Bihar and Orrisa Public Demands Recovery Act, 1914, issued



warrant of arrest dated 01.03.2023 against the petitioner for enforcing the certificate amount of Rs. 2,64,345.11/- mentioned in the so-called certificate notice which is never served upon the petitioner till date.

(b) To grant stay or kept in abeyance to warrant of arrest dated 01.03.2023, issued by the Sub-Divisional Certificate Officer, Bikramganj in connection with certificate Case No. 02 2022-23 whereby and where under the respondent authority given direction to arrest of the petitioner.

(c) For a direction to the Sub-Divisional Certificate Officer, Bikramganj, Rohtas to allow petitioner to exercise his statutory right given under section 9 of the Bihar and Orissa Public Demand Recovery Act, 1914 for filing of show cause against the Certificate Case No. 02/2022-23, further prayer that proceeding of said certificate may remain stay till the disposal of this writ petition.

(d) And for any other relief/reliefs for which the petitioner may is found to be entitled under the provision of law involved in the present case.”

3. Learned counsel for the petitioner has stated that the impugned order is passed by the authority concerned without giving any show cause notice to the petitioner or giving him an opportunity of filing his objections. Learned counsel has stated that the impugned may be set aside and opportunity may be given to the petitioner to participate in the said proceedings



and the petitioner may be permitted to file his objections under Section 9 of the Bihar and Orrisa Public Demands Recovery Act, 1914.

4. *Per contra*, learned counsel appearing on behalf of the respondent-Bank has stated that the petitioner was put on notice and after putting him on notice only and there was no response from the petitioner, the impugned was order passed. Learned counsel has stated that the petitioner having received the notices ought to have filed his objections before the concerned Certificate Officer but he has failed to do so. Further, learned counsel has stated that the petitioner has an alternative and efficacious remedy of filing an appeal under Section 60 of the Bihar and Orrisa Public Demands Recovery Act, 1914 and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the material paper filed by the petitioner reveals that the authority has not passed the final order under Section 10 of the Act.

6. Having regard to the above, the petitioner is directed to file his objections under Section 9 of the Bihar and Orrisa Public Demands Recovery Act, 1914 before the concerned authority within a period of two weeks from the date



of receipt of a copy of this order. On receipt of the said objections by the petitioner, the concerned authority shall pass necessary orders under Section 10 of the Bihar and Orrisa Public Demands Recovery Act, 1914 within a period of four weeks thereof. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. Till such time the final orders are passed under Section 10 of the Bihar and Orrisa Public Demands Recovery Act, 1914, the concerned authorities are directed not to take any coercive steps against the petitioner. In case the petitioner does not file his objection within the stipulated time, the authorities are free to pass the final orders in accordance with law.

7. With the above direction, the present writ petition stands disposed off.

(A. Abhishek Reddy, J)

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