

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.966 of 2025

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Anant Prasad Sahu, S/o Devlal Sah R/o Village-Piparadh, Hethua,
Hitavarjpur, P.O. and P.S.-Rajpur, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Buxar.
3. The Additional Collector, Buxar.
4. The District Certificate Officer, Buxar.
5. The Block Development Officer, Buxar Sadar, District-Buxar.
6. The Block Development Officer, Chausa, District-Buxar.
7. The Block Development Officer, Brahampur, District-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhash, Advocate.

For the Respondent/s : Mr. Government Pleader (12).

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

7 21-08-2025 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the
following reliefs:-

“(i) For issuance of an appropriate writ, order/direction in the nature of certiorari for quashing the certificate case No. 7 of 2019-20 which has been initiated against the petitioner contrary to statutory rules of Public Demand Recovery Act, 1914.

(ii) For issuance of an appropriate writs order/direction the nature of certiorari for quashing the entire proceeding in the certificate case



No. 7 of 2019-2020 pending in the Court of District Certificate Officer, Buxar, if any.

(iii) For quashing of letter No. 2278 dated 31.12.2019 issued by Block Development Officer, Buxar Sadar to District Certificate Officer, Buxar for instituting a certificate case against the petitioner.

(iv) For quashing of notice under Section 7 of Public Demand Recovery Act, 1914 issued by District Certificate Officer, Buxar to the petitioner for demand of Rs. 11,45,900/-”

3. Learned counsel appearing on behalf of the petitioner has stated that the initiation of the certificate proceedings against the petitioner is per se illegal and contrary to the provisions of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as ‘the Act’). Learned counsel has stated that the petitioner was working as Panchayat Secretary in the year 2006 from Chausa Block, District-Buxar and the amount of Rs. 11,45,900/- that has been sought to be recovered from the petitioner pertains to the year, 2007-08. That the petitioner was working as a Panchayat Secretary in the year, 2006 along with the Mukhiya, the funds were allocated for the purpose of installing solar bulbs. That the petitioner has retired as Panchayat Secretary on 31.01.2023, after a gap of almost seven years the authority have taken



decision to recover the amount spent for installation of the solar system bulbs on the ground that the purchase of the solar bulbs were not made from the BREDABELTRON. Learned counsel has stated the amount sought to be recovered from the petitioner is not a public demand and the same is not quantified amount nor any agreement has been entered by the petitioner admitting the above-mentioned amount. Further, it is stated by the learned counsel for the petitioner that as per the provisions of the Act the initiation of the certificate proceedings after seven years is barred by period of limitation.

4. Learned counsel has relied upon on the judgments of this Hon'ble Court passed in the case of *M/s Lal Chand Panna Lal & Ors. Vs. The State of Bihar* reported in (2007) 4 PLJR 590, in the case of *The Certificate Officer of Siwan Central Co-operative Bank Vs. The State of Bihar & Ors.* and in the case of *Mahendra Prasad Jaiswal Vs. The State of Bihar & Ors.* to support his case.

5. Learned counsel appearing on behalf of the petitioner has, therefore, prayed this Court to allow the present writ petition and quash the certificate proceedings initiated against him.

6. Per contra, the learned counsel appearing on behalf



of the Respondent-State has vehemently opposed the very maintainability of the present CWJC. Learned counsel has stated that the petitioner has already filed his objections to the notice issued under Section 7 of the Act and the final orders under Section 10 have not been passed by the authority. That in case, the petitioner has any grievance against the final orders, the petitioner has a remedy by way of a statutory appeal. Learned counsel has stated that contrary to the instructions given by the Government of Bihar, the petitioner along with the then Mukhiya of the Gram Panchayat had purchased solar bulbs from third party agencies and not from the BRED A/BELTRON. Learned counsel has further stated that the amounts are quantified and, therefore, the same can be recovered from the petitioner. Further it is stated by the learned counsel for the respondent-authority that the amount which are sought to be recovered comes under the definition of “public demand” as envisaged under the Act. Therefore, the present writ petition is liable to be dismissed with costs.

7. In order to the appreciate the issued involved in the present writ petition, it is necessary to extract the relevant portions of the Bihar and Orissa Public Demand Recovery Act, 1914 more specifically Section 3 (6) read with Schedule -I of



the Act which is quoted herein below:-

“Section 3(6)- Public Demand-
means any arrear or money mentioned or referred to in Schedule I, and includes any interest which may by law, be chargeable thereon upto the date on which a certificate is signed under Part II; and”

Schedule -I of the Bihar and Orissa Public Demand
Recovery Act, 1914 read as under:

“1. Any arrear of revenue which remains due in the following circumstances, namely--

When, under the provisions of Bengal Land Revenue Sales Act, 1859 (XI of 1859) or the Bengal Land-Revenue Sales Act, 1868 (Ben, Act VII of 1868), or any other law for the time being in force, an estate or tenure, or any share of an estate or tenure, has been sold for the recovery of arrears of revenue-due thereupon, and, after deducting the expenses of such sale, the balance of the sale proceeds remaining is insufficient to liquidate the arrears of revenue in discharge of which such sale-proceeds may, under the said provisions, be applied.

2. Any arrear of revenue which is due from a farmer on account of an estate held by him in farm, and is not paid on the latest day of payment fixed under Section 3 of the Bengal land-Revenue Sales Act, 1859 (XI of 1859).

3. Any money which is declared by any law for the time being in force to be recoverable or realizable as an arrear of revenue or land-revenue, or by the process



authorized for recovery of arrears of revenue or of the public revenue or of Government revenue.

4. Any money which is declared by any enactment for the time being in force

(i) to be a demand or public demand; or

(ii) to be recoverable as arrears of a demand or public demand, or as a demand or public demand; or

(iii) to be recoverable under the Bengal Land-Revenue Sales Act, 1868 (Ben. Act VII of 1868).

5. Any money due from the sureties of a farmer in respect of the revenue of the estate farmed by him.

6. Any money awarded as fees or costs by a Revenue-authority under any law or any Rule having the force of law.

7. Any demand payable to the Collector by a person holding any interest in land, pasturage, forest-rights, fisheries or the like, whether such interest is or is not transferable, when such demand is a condition of the use and enjoyment of such land, pasturage; forest-right, fisheries or other things.

8. In the case of property which under the provisions of any law for the time being in force, is under the charge of, or is managed by the Court of Wards or the Revenue-authorities on behalf of a private individual, any arrear of rent, or of any demand which is recoverable as rent, whether such arrear became due before or after the management devolved upon such Court or such authorities:

Provided that this clause shall not



apply to any arrears to the person liable to pay the same or has been confirmed by a competent Court.

Note 1- *The Act does not apply to rents of houses and shops and the certificate procedure cannot be applied to the recovery of such rents, Unless by a written instruments, duly registered, the persons liable to pay such rents have agreed that they shall be recoverable as public demands.*

Note 2- *In trust estates managed by Government as expressed trustee, arrears of rent are recoverable under Article 7. In attached estates managed by the Revenue Authorities on behalf of private individuals, arrears of rent are recoverable under Article 8.*

[8-A. *Any outstanding loans and advances payable to State Government or to a Department of Official of the State Government by any body whatsoever.]*

9. *Any money payable to a servant of the Government or any local authority, in respect of which the person liable to pay the same has agreed, by a written instrument [x x x x], that it shall be recoverable as a public demand.*

[Explanation- *This item shall not apply to any money or demand specified in terms 3, 4 and 7.]*

[9A. *Any money being arrears of dues payable on account of the supply by the State Government of water under any lift irrigation scheme or of electrical energy and in respect of which the consumer or the person liable to pay the same has agreed by a written instruments, whether executed before or after the 17th day of March, 1943,*



that the said money shall be recoverable as a public demand.

10. Any stamp duty payable by a proprietor in respect of a paper of partition prepared under the Estates Partition Act, 1897 (Ben, Act V of 1897).

11. In the case of a person to whom the collection of tolls has been framed under Section 8 of the Canals Act, 1864 (Ben. Act V of 1864) or of the sureties of such person any money due in respect of such farm.

12. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.

13. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.

14. Any money ordered by a liquidator appointed under Section 42 of the Cooperative Societies Act, 1912, to be recovered as a contribution to the assets of a society or as the costs of liquidation (Ben, Act 5 of 1912).

[15. Any money payable to ----

(i) State Bank of India constituted under the State Bank of India Act, 1955 (No. 23 of 1955); or

(ii) a Bank specified in column (2) of the first schedule to the Banking Companies (Acquisition and Transfer or Undertaking) Act, 1970 (Act V of 1970); or

(iii) a company or a statutory body, including a registered society carrying on financial transactions, owned by or in which Government has a majority of shares or which is managed by an



authority appointed under any law for the time being in force; or

(iv) the Bihar State Electricity Board.

in respect of which the person liable to pay the same has agreed, by a written instrument that it shall be recoverable as public demand.]”

8. Further, as seen from the judgments cited by the learned counsel for the petitioner, this Hon’ble Court has held as under:-

9. This Hon’ble Court in the case of ***The Certificate Officer of Siwan Central Co-operative Bank Vs. The State of Bihar & Ors.*** has held as under:-

“6. It is noticed by us that the action of the appellant for the recovery of the alleged amount of defalcation under the provisions of the Bihar Public Demands Recovery Act cannot be justified in absence of any due and payable amount to the Bank in terms of the provision of the agreement or under the provisions of the aforesaid Acts. The observations made by the learned Single Judge in latter part in paragraph 4 of the impugned judgment are quite weighty and cannot be dislodged in course of the submissions before us.

7. A certificate proceeding contemplated under law proceeded on the premise that there is money due and payable either in terms of the agreement or contract or under the provisions of law. Mere an allegation of the Bank with



regard to the defalcation by the employee in course of the period of his service would not tantamount “Ipso Facto” that the amount due was legally payable to the Bank by the person against whom such allegations are made. It is in this context, there would not arise any question of grant of a certificate and resultant recovery thereof under the provisions of the said Acts.

8. This Court in ***M/s Murlidhar Sohanlal vs. State of Bihar & Ors.***, 1998(3) Patna Law Journal Reports 526, had an occasion to deal with similar situation and upon evaluation of the relevant provisions of law and similar facts situation has held that the Corporation, in the present case Bank, can avail the remedy of certificate proceeding treating it to be a public demand provided the person liable to pay the same has agreed by a written instrument that it shall be recoverable as a public demand. Apart from the fact that there is no such agreement and there is mere allegation of defalcation of the aforesaid amount by the employee of the Bank, the proposition of law enunciated in the said judgment in the said case by this Court, after examining and appreciating the provision of Section 9 read with Item No. 15 of Schedule I of Bihar and Orissa Public Demands Recovery Act, 1914, would directly cover the facts of the present case and, therefore, the appeal on hand is without any substance and merit and deserves to be dismissed at the threshold.”

10. This Hon’ble Court in the case of ***M/s Lal Chand***



Panna Lal & Ors. Vs. The State of Bihar reported in (2007) 4

PLJR 590 has held as under:-

“8. Section 65 sub-section (2) of the P.D.R. Act, 1914 provides: that the provisions of Limitation Act shall apply to all proceedings under this Act as if a certificate filed hereunder were decree of a Civil Court. The limitation as provided is of three years. The requisition for initiating Certificate proceeding was filed on 9.9.2005 much beyond the period of limitation. In spite of that the Certificate Officer has signed a Certificate under Section 6 of P.D.R. Act that recovery is not barred by any law. This objection raised by the petitioner has not been answered or denied specifically in the counter affidavit. The Certificate proceeding is apparently barred by limitation. If the statute has casted a duty upon the statutory authority to act in a particular manner, he must act in that manner only, and his act must be justifiable under the provisions of the Act. The applicability of the Limitation Act under the P.D.R. Act makes it obligatory for the Certificate Officer to verify before issuance of Certificate that the certificate proceeding is not barred by limitation.

9. Having regard to the above, the initiation of the certificate proceedings against the petitioner after a lapse of more than 14 years is barred by limitation and therefore, liable to be set aside and the same is accordingly set



aside.”

11. A Division Bench of this Hon’ble Court in the case of ***Mahendra Prasad Jaiswal Vs. The State of Bihar & Ors*** has held as under:-

*“4. The grievance of the appellant in the writ petition challenging the certification proceedings was that the amount in question is disputed. Until and unless the quantification of the amount is not undertaken by resolving the dispute or adjudicating the dispute in accordance to law by an appropriate forum, may be a civil suit or a common law remedy available, the certification proceedings was not maintainable and the learned Writ Court in the present case having not adverted to consider this question of law, learned counsel argues that in relegating the appellant to take recourse to the statutory remedy available under the Act was unsustainable. He invites our attention to a judgment of the Supreme Court in the case of **Budha Singh Vs. The State of Bihar and Ors.- A.I.R. 1981 Pat 149** to say that until and unless the amount in dispute is not adjudicated, the certification proceedings are not maintainable.*

5. Even though learned counsel for the respondents refuted the aforesaid contention, we are of the considered view that while relegating the appellant to take recourse to the statutory alternate remedy available, the learned Writ Court has not considered the question as to whether the amount in question is a



disputed amount or a non-disputed amount, whether the certification proceedings was maintainable without adjudication of the dispute and whether the Corporation was liable to recover the amount without resorting to any adjudicatory proceedings treating the amount to be an admitted amount beyond the realm of a disputed amount. This aspect of the matter having not been adverted to by the learned Writ Court, it is a fit case where this appeal should be allowed and the writ petition remanded back for reconsideration in accordance with law.”

12. Having regard to the above mentioned facts and circumstances and the law laid down by this Hon'ble Court in the above mentioned judgments, the recovery of the amount sought to be made from the petitioner is not only barred by limitation but it is to be noted that the said amount does not come under any of the clauses mentioned in Schedule-I of the Act. Further, it is to be noted that the amounts that are sought to be recovered cannot be termed as public demand as there is no agreement between the parties admitting that the amounts are due and recoverable from the petitioner. It is also pertinent that that the amounts sought to be recovered from the petitioner have not been adjudicated and found to be recoverable by a competent Civil Court.

13. In view of the above, the initiation of the



certificate proceedings against the petitioner are liable to be quashed and the same is accordingly quashed.

14. With the above directions, the present writ petition stands **allowed** to the extent indicated.

(A. Abhishek Reddy, J)

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