

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13609 of 2017

=====

Awadh Kishore Ram Son of Late Ramprit Ram Resident of Village - Sanauli,
Police Station - Masrakh, District - Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Principal Secretary Food and Consumer Protection Department, Patna
2. The District Magistrate, Vaishali at Hajipur.
3. The Certificate Officer, Vaishali at Hajipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	M/s Bindyachal Singh, Sr. Advcoate Sachin Kumar
For the Respondent/s	:	Mr.Arvind Ujjwal – SC 4

=====

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 16-07-2025

1. The petitioner has filed the instant application for the following reliefs:

“i) For quashing the entire proceeding of Certificate Case no. 17 of 2015-16, pending in the court of Certificate Officer, Hajipur at Vaishali whereby Certificate proceeding has been initiated against the petitioner for recovery of Rs. 25,51,177.19/-.

ii) For quashing the notice U/S 7 of Bihar & Orissa Act no.4, 1914 dated 15.04.2015 issued under signature of Certificate Officer, Vaishali whereby a demand of Rs. 25,51,177.19/- has of been raised against the petitioner.



iii) For quashing the order dated 18.08.2015, passed in Certificate Case no. 17 of 2015-16, by the Certificate Officer, Vaishali at Hajipur, whereby bailable warrant has been issued against the petitioner for alleged recovery of Rs. 25,51,177.19/.

iv) For quashing the order dated 12.12.2016, passed in Certificate Case no. 17 of 2015-16, by the Certificate Officer, Vaishali at Hajipur, whereby the objection filed by the petitioner under section 9 of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter refer as 'Act' only) has been rejected without assigning any reason though the petitioner has raised several objections including maintainability of the certificate case as well as demand.

v) For issuance of any other writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case."

2. At the very outset, Learned Senior counsel for the petitioner contended that since this matter is squarely covered under the order passed by a Division Bench of this Court in the case of **The Certificate Officer of Siwan Central Co-**



operative Bank -Vs. The State of Bihar & Ors.

reported in **(2006) 2 PLJR 176**, this writ petition may also be disposed of on the same terms and conditions.

4. In **The Certificate Officer of Siwan Central Co-operative Bank (supra)** their Lordships have held as follows:

“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 *Murlidhar Sohanlal v. State of Bihar*, 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.

9. Accordingly, this appeal shall stand dismissed with costs.”

5. Having regard to the submissions made by the parties, the present writ petition stands disposed of in terms of the aforesaid judgment passed in **The Certificate Officer of Siwan Central Co-operative Bank (supra).**

6. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.07.2025
Transmission Date	

