

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2144 of 2018

=====

Arun Kumar Tiwari Son of Late Raj Kishore Tiwary, Resident of Shivpuri Colony, Bara Gamhariya, P.O.- Gamhariya, P.S.- Adityapur, District- Saraikela Jharkhand, presently residing at Laxmi Niwas, State Bank Colony, P.O. Chapra, P.S.- Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Saran at Chapra, District- Saran at Chapra.
3. The District Planning Officer, Saran at Chapra, District- Saran at Chapra.
4. The District Certificate Officer, Saran at Chapra, District- Saran at Chapra.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Anita Kumari, Adv.
For the Respondent/s : Mr.Harish Kumar -GP8

=====

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 30-06-2025

1. The Writ petition is filed to quash the order dated 04.01.2018 passed by respondent No. 4 in Certificate Case No. 01 of 2016-17 (District Planning Officer, Saran at Chapra Vs. Arun Kumar Tiwary), whereby respondent No. 4 has been pleased to hold that the certificate amount is recoverable from the certificate debtor(s), and was further pleased to direct initiation of action for recovery of the amount.



2. The second relief sought is that, after service of notice of certificate proceedings, if an objection has been filed by the certificate debtor, it is the statutory duty of the respondent No. 4 to deal with the objection under Section 9 of the Public Demand Recovery Act so raised by the certificate debtor. Since the impugned order dated 04.01.2018 does not consider any of the grounds urged by the certificate debtor in his objection, the impugned order cannot be sustained in the eye of law.

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

4. The brief facts, as culled out from the Writ petition, are that for the purpose of supplying 70 school buses, an agreement was entered into between Saraswati Component Pvt. Ltd., Dahiawan, Chapra and the District Planning Officer, Saran at Chapra on 11.03.2013. As per the agreement, the petitioner's company was required to supply the buses within 40-60 days. In order to fulfill the conditions of the agreement, the petitioner company



vide its letter dated 04.05.2013, informed respondent No. 3 that 34 numbers of 32 seater buses and 40 numbers of 40 seater school buses were ready for delivery and which were kept in the yard. A request was made to respondent No. 3 to arrange for the delivery of those buses by deputing authorized personnel from the depot. Further, the respondent No. 3 was informed on 20.03.2013 and 03.04.2013 regarding the supply of buses. However, they did not receive any reply. The communications which took place between the petitioner and the respondent No. 3 were brought on record vide Annexure- P/4 series. Despite of repeated reminders to supply the buses, the respondent No. 3 did not respond, thereafter, the petitioner's company had no option but to raise a demand for more than one crore rupees, which incurred towards the maintenance of 48 buses. The respondent No. 3 ultimately received those buses at a belated stage for which, the petitioner company sustained huge financial losses, due to the latches of the informant. The company was not willing to supply the buses rather, it expressed the willingness



to refund the due amount, after deducting the cost incurred towards maintenance of buses.

5. It is pertinent to note that the agreement was entered into on 09.07.2016. A requisition was filed by respondent No. 3 before respondent No. 4 for recovery of a sum of Rs. 2,21,64,426/- along with interest of Rs. 47,03,436/-, totaling Rs. 2,68,67,862/- (Two Crores Sixty-Eight Lakh Sixty-Seven Thousand Eight Hundred Sixty-Two) from the petitioner. Subsequently, Certificate Case No. 01 of 2016-17 was instituted before respondent No. 4, and a notice under Section 7 of the Act was issued to the petitioner. Upon receipt of the said notice, the petitioner filed objections under Section 9 of the Act on 26.12.2016. Despite this, the authorities have not passed any order on the said objection. Therefore, the present Writ petition has been filed seeking a direction to quash the certificate proceedings and to direct the authorities to pass an appropriate order under Section 10 of the Act.

6. A detailed counter affidavit has been filed by the respondent Nos. 2 and 4. The contents of



the counter affidavit disclose that the petitioner delivered only 48 buses instead of 70 buses and failed to supply the remaining 22 buses as per agreement. Despite repeated requests, the petitioner did not refund the balance amount paid to the company, towards the cost of 70 buses. A requisition was submitted vide Letter No. 351 dated 09.07.2016 by the District Planning Officer, Saran at Chapra before the District Certificate Officer, Saran, for recovery of a sum of Rs. 2,21,64,426/- along with interest of Rs. 47,03,436/-, totaling Rs. 2,68,67,862/-. Later, an FIR was also lodged against the petitioner on 12.07.2016 in connection with Chapra Town P.S. Case No. 327 of 2016.

7. The counter affidavit further disclose that Certificate Case No. 01/2016-17 was instituted by the District Certificate Officer against the petitioner/ Arun Kumar Tiwary, proprietor of Sarswati Component Pvt. Ltd. After service of notice, the petitioner appeared before the District Certificate Officer, Saran and filed his objection on 26.12.2016. On 15.02.2017, a rejoinder petition was also filed on



behalf of Certificate holder, in response to the objection petition dated 26.12.2016. Subsequently, on 07.10.2017, an additional rejoinder petition was filed by the respondent No. 3 against the said objection petition. On 23.03.2017, another objection petition was filed by the petitioner, to which the certificate holder (respondent No. 3) filed a rejoinder. After perusing the objections and rejoinders filed by the certificate debtor and the certificate holder, the District Certificate Officer, Saran, was pleased to hold that the amount involved in the certificate case is recoverable from the certificate debtor, and accordingly, an order was passed on 04.01.2018.

8. Upon perusal of the entire records, it is evident that a detailed order has not been passed on the objections filed by the petitioner under Section 9 of the Act. However, the order dated 14.01.2018 clearly disclose that the objections have been taken into consideration, and decision was passed vide an order under Section 10 of the Act. Admittedly, the Writ petitioner challenged the order dated 04.01.2018, on the ground that the respondents



have not passed any order under Section 10 of the Act. The remedy available to the petitioner is to challenge the said order, by way of appeal under Section 60 of the Public Demands and Recovery Act. An effective alternative remedy is available to the petitioner. Instead of availing the the same, the petitioner has approached this Court. Therefore, this Court is of the considerable view that the Writ petition itself is not maintainable.

9. At this juncture, the Learned counsel for the petitioner seeks liberty to challenge the order by way of an appeal before the appropriate authority. The Writ petition was filed in the year 2018. Therefore, the appellate authority, shall liberally construe the limitation aspect while considering the appeal. An appeal shall be filed by the petitioner within one month from the date of receipt of the order along with all relevant documents. Further, the appellate authority shall consider the case in accordance with law and shall dispose of the appeal within three months from filing of the appeal.



10. With the aforesaid observations, the
Writ petitions stands disposed of.

(G. Anupama Chakravarthy, J)

AMANDEEP/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.07.2025.
Transmission Date	

