

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19096 of 2018

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Ram Lagan Prasad S/o late Dahu Prasad Resident of Village- Kosma, P.O. Dharamshala, P.S. Chandaoti, Dist.Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate, Vaishali
2. Zila Parishad, Vaishali through its Chief Executive Officer.
3. The Deputy Development Commissioner-Cum-Chief Executive Officer, zila Parishad, Vaishali.
4. Additional Chief Executive Officer, Zila Parishad, Vaishali Cum Certificate Officer, Vaishali, District
5. The Certificate Officer, Vaishali District.
6. Head Clerk Cum Accountant, Zilaparishad, Vaishali.
7. Office Clerk, Zilaparishad, Vaishali.
8. Sri. Harendra Prasad Verma S/o not known to the petitioner Retainer Advocate, Zila Parishad, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prakritita Sharma, Advocate
For the Respondent/s	:	Mr. Ajay- GA5
For the Zila Parishad	:	M/s Shri Nandan Pd. Singh, Sr. Advocate Kumar Samir, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 03-09-2025

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

"i. To issue a writ in the nature of certiorari to quash the entire proceeding of certificate case No-14 of 2013-14, pending before the Learned Certificate Officer, Vaishali registered by respondent no. 3 on



the basis of requisition dated 30.8.2013, not properly verified as mandatorily required, (Annexure-2) jointly filed by respondent nos. 3 & 5 to 7 to Under section 5 of the Bihar and Orissa Public Demands Recovery Act (hereinafter referred to as the Act) for the recovery of certain amount advanced/ allotted for performing work under the Schemes of Zila Parisad, without paying mandatory requisite fees as required under Section 5(2) of the Act and the then Certificate officer Respondent No. 3 registered the Certificate case 14/2013-14 and issued notice dated 18. 9. 13 U/S 7 of the Act both as requisition officer (Prosecutor) as well as Certificate Officer (the Judge) without filing any certificate U/S 6 of the Act which is condition precedent for registration of Certificate case.

ii. To issue a writ in the nature of certiorari to quash the order dated 18.09.2013 (Annexure-3) passed by Respondent No. 3 in the capacity of the Certificate Officer



of Vaishali mentioning herself as requisition Officer, filing Certificate U/S 6 and directing to issue notice under Section 7 of the Act.

lii. To issue a writ in the nature of certiorari to quash the distress warrant dated 10.7.2018 (Annexure-4) issued in the certificate case no 14 of 2013-14 against the petitioner.

iv. To grant leave to add, amend, modify or otherwise vary the grounds in support of this writ application.

v. To grant such other relief or reliefs to which the petitioner may be found entitle in equity and/or in law by Your Lordships in the facts and circumstances of this case.”

2. Heard the Learned counsel for the petitioner as well as the Learned counsel for the State.

3. At the very outset, Learned counsel for the petitioner contended that since this matter is squarely covered under the order dated 12.01.1999 passed by a Co-ordinate Bench of this



Court in **CWJC No. 4332 of 1995 (Akhauri Bijoy Kumar Sinha Versus The State of Bihar & Ors)**

this writ petition may also be disposed of on the same terms and conditions.

4. In **Akhauri Bijoy Kumar Sinha (supra)** this Court has held as follows:

"5. I find substance in the argument of the learned Counsel. The money advanced by Rohtas Zila Parishad to the Petitioner for execution of certain construction work, while he was working as Junior Engineer, is not a public demand within the meaning of the Act. Public demand has been defined in Sub-section (6) of Section 3 of the Act as under:

"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 upon the date on which a certificate is signed under Part II."

Schedule I, which runs into 15 Clauses contains various types of dues, which can be recovered as a public demand under the Act. Thus, in order to bring the case within a public demand it has to be shown that the amount sought to be



recovered from the Petitioner is covered by some Clause of Schedule I. Learned Counsel for the Respondents has failed to show that the amount sought to be recovered from the Petitioner is covered by any of the Clauses of Schedule I. Since the amount in question is not a public demand, it cannot be legally recovered under the provisions of the Act.

6. The impugned order of Respondent No. 3 rejecting the objection of the Petitioner, that the amount in question could not be legally recovered as public demand, suffers from an error apparent on the face of the record and is, therefore, liable to be quashed.

7. In the result the writ petition is allowed and the entire proceedings of Certificate Case No. 1 of 1993-94 including the impugned order dated 26.6.95 of the Respondent No. 3 is quashed. Quashing of the certificate proceedings will not preclude the Respondent No. 2 from recovering the amount, if any, due from the Petitioner by any other mode available to him under law.”

5. In view of the fact that this matter is squarely covered by the aforesaid order, the Writ application is allowed, in light of the order passed



in **Akhauri Bijoy Kumar Sinha (supra)**, and accordingly, entire proceedings of Certificate Case No. 14 of 1913-14 including the impugned order dated 18.09.2013 (Annexure-3), distress warrant dated 10.07.2016 (Annexure-4) issued in the Certificate Case No. 14 of 2013-14 are quashed. Quashing of the certificate proceedings will not preclude the concerned respondent from recovering the amount, if any, due from the Petitioner by any other remedies available to respondent under law.

6. With the aforesaid observations, this Writ petition is allowed in terms of order passed in **Akhauri Bijoy Kumar Sinha (supra)**.

7. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2025
Transmission Date	

