

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12002 of 2023

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Rajkishore Paswan @ Rajkihosr Paswan, aged about 63 years (Male), Son of Late Khayali Paswan, Resident of Village-Basahiya, P.O.-Fateh Pur. P.S. and District-Sheohar

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary Home Department, Government of Bihar, Patna.
3. The Managing Director Bihar State Schedule Cast Cooperative Development Corporation Ltd., Officers Hostel, Block-A, Baily Road, Patna.
4. The Secretary, Bihar State Schedule Cast Cooperative Development Corporation Ltd., Officers Hostel, Block-A, Baily Road, Patna.
5. The State Executive Officer, Bihar State Schedule Cast Cooperative Development Corporation Ltd., Officers Hostel, Block-A, Baily Road, Patna.
6. The District Executive Officer, Bihar State Schedule Cast Cooperative Development Corporation, Branch Sitamarhi at Sheohar.
7. The Deputy Collector, Land Reform-Cum-Certificate Officer, Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate.

For the Respondent/s : Mr. P.K. Verma, AAG 3 with
Mr. Suman Kumar Jha, AC to AAG-3.

For the Cooperative : Mr. Ranjeet Kumar Pandey, Advocate.

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

10 23-01-2025 Heard learned counsel for the parties.

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

“(i) For issuance of writ in the nature of certiorari for quashing the certificate case No. 28/18-19 including the initiation of the certificate case No. 28/2018-19 as well as application for



certificate under Section 5 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Form-2) issued under the signature of the District Executive Officer, Bihar State Schedule Caste Cooperative Development Corporation, Branch Sitamarhi at Sheohar as contained in Annexure-1 to the writ petition, the Public Demand Certificate under Section 4 and 6 of the Bihar and Orissa Public demand recovery Act, (Form 1) issued without any signature of any authority including the Deputy Collector land reform-cum-certificate officer, Sheohar as contained in annexure-2 to the writ petition and notice dated 13.09.2018 issued under the signature of Deputy Collector, Land reform-cum-certificate Officer, Sheohar (Respondent No. 7) in certificate Case No. 28/2018-19 as contend in Annexure-3 to this writ petition whereby and whereunder a demand of Rupees 1099951/- with interest till 17.02.2016 has been made from the petitioner.

(ii) For issuance of a writ in the nature of Certiorari for quashing of the application for certificate under Section 5 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Form 2) issued under the signature of District Executive Officer, Bihar State Schedule Cast Cooperative Development Corporation, Branch Sitamarhi at Sheohar (Respondent No. 6) as contained in Annexure-1 to this writ petition whereby and where under a demand of Rs. 1099951/- with interest till 17.02.2016 has been made for the petitioner.

(iii) For issuance of a writ in the nature of Certiorari for quashing of the



Public Demand Certificate under Section 4 & 6 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Form 1) issued without any signature of any authority or the Deputy Collector, Land Reform-cum-Certificate Officer, Sheohar (Respondent No. 7) as contend in Annexure 2 to this writ petition whereby and whereunder a demand of Rs. 1099951/- with interest till 17.02.2016 has been made from the petitioner.

(iv) For issuance of a writ in the nature of certiorari quashing the notice dated 13.09.2018 issued under the signature of Deputy Collector, Land reform-cum-Certificate Officer, Sheohar (Respondent No. 7) in Certificate Case No. 28/2018-19 as contained in Annexure 2 to this writ petition whereby and where under a demand notice of Rs. 1099951/- has been made under Section 7 of the Bihar & Orissa Public Demand Recovery Act by the Deputy Collector, Land reform-cum-Certificate Officer, Sheohar (Respondent No. 7) to this writ petition fixing the date on 25.09.2018 for appearance of the petitioner for show cause or deposit the total amount with the interest otherwise the process for attachment of the property and arrest of warrant will be issued for recoverable dues amount. The notice further contended that no further opportunity will be given for filing show cause and the petitioner is liable for punishment.”

3. The present writ petition is filed under the provisions of the Bihar & Orissa Public Demand Recovery Act, 1914 wherein the notice under Section 7 has been issued to the



petitioner for non-payment of an amount of Rs. 1099951/- along with interest till 17.02.2016.

4. A perusal of the impugned notice reveals that the certificate issued by the Certificate Officer is unsigned and undated. A Division Bench of this Hon'ble Court in CWJC No. 19966 of 2019 under similar circumstances has allowed the writ petition holding that the initiation of the certificate proceedings is bad due to the above reasons and granting liberty to the authorities to initiate fresh recovery proceedings in accordance with law by issuing a fresh certificate duly signed and dated.

5. Having regard to the fact that in the present case also the certificate issued by the Certificate Officer is unsigned and undated, the present writ petition is allowed setting aside the impugned notice dated 13.09.2018. The authority is directed to initiate fresh certificate proceedings by issuing a duly signed and dated certificate to the petitioner. The authorities shall intimate the petitioner, the date of hearing on which date the petitioner shall appear before the authority and give him an opportunity to file his objections under Section 9, thereafter, the authority shall consider and dispose of the petitioner's objections by passing a reasoned and speaking order as expeditiously as possible preferably within a period of three



months from the date of appearance of the petitioner before him.
Till such time the final orders are passed by the authority, no coercive steps shall be taken against the petitioner.

6. The authorities shall also examine the following:-

- (i) The authority shall examine as to whether the amount in question falls within the definition of public demand or not;
- (ii) Needless to add, while considering such petition principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;
- (iii) Order assigning reasons shall be supplied to the parties;
- (iv) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;
- (v) This Court is hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with in accordance with law and with reasonable dispatch;
- (vi) Liberty reserved to the petitioner to challenge the order passed by the appropriate authority, before the appropriate forum, if so required and desired;
- (vii) This Court has not expressed any opinion



on merits. All issues are left open.

7. With the above directions, the present writ petition
stands disposed of.

(A. Abhishek Reddy , J)

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