
(2012) 02 JH CK 0039

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5234 of 2011

Ashok Kumar Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 10

Citation : (2012) 02 JH CK 0039

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari

1. In this writ petition, the petitioner has prayed for quashing the order dated 28.7.2011 passed by the Certificate Officer, Dhalbhum, Jamshedpur in Certificate Case No. 47/RT-93-94, whereby the Certificate Officer has rejected the application filed by the petitioner.

2. The grievance of the petitioner is that though he had denied the said liability by appearing before the Certificate Officer, without hearing him and without determining the liability, the Certificate Officer has rejected his objection / application by the impugned order dated 28.7.2011 and has directed him to deposit the certificate amount.

3. Learned counsel for the petitioner submitted that the petitioner had filed an application denying the said liability. He had taken specific ground that earlier he had never appeared in the said certificate case and Vakalatnama filed on his behalf, had never been signed by him and he had no knowledge about filing of the said Vakalatnama. If the petitioner had denied the said liability, the Certificate Officer had to hear the petitioner and others and had to determine the liability under the mandatory provision of Section 10 of the Bihar / Jharkhand Public Demand Recovery Act. But without hearing the petitioner and others and

determining the liability, the Certificate Officer has arbitrarily rejected the petitioner's application / objection and directed him to deposit the certificate amount. The impugned order dated 28.7.2011, passed by the Certificate Officer is, thus, wholly arbitrary and illegal and the same is liable to be quashed.

4. Learned J.C to S.C (Mines) appearing on behalf of the respondents opposed the writ petition. It has been submitted, inter alia, that the petitioner is the registered owner of the vehicle and he is liable for payment of road tax. He cannot deny his tax liability. Learned Certificate Officer has, thus, rightly rejected the petitioner's objection and directed him to pay the certificate amount.

5. I have heard learned counsel for the parties and perused the impugned order. On perusal of the impugned order, I find that the Certificate Officer has not considered and discussed the grounds of denial of liability and has not recorded his finding. He has arbitrarily held the liability of the petitioner in one line and rejected the petitioner's application directing him to deposit the certificate amount. The impugned order is cryptic and non-speaking and is not based on any reason. The same is void on that ground alone. Further, once the certificate debtor denies his liability, the Certificate Officer has to hear him and determine the liability before directing him to deposit the certificate amount, as required by the mandatory provision of Section 10 of the Bihar / Jharkhand Public Demand Recovery Act. The said mandatory provision of law has not been complied with. The impugned order is, thus, not sustainable on that ground as well.

6. For the above reasons, the impugned order dated 28.7.2011 passed by the Certificate Officer, Dhalbhum, Jamshedpur in Certificate Case No. 47/RT-93-94 is quashed. This writ petition is allowed. The matter is remitted to the Certificate Officer for hearing and disposing of the same afresh, in accordance with law.