
(2016) 05 JH CK 0040
In the Jharkhand High Court
Case No : W.P. (C) No. 1270 of 2016

Chandrashekhar Pandey

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 03-05-2016

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 60, 9

Citation : (2016) 3 JBCJ 357 : (2017) 1 JCR 183

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Vinay Kumar Tiwary, Advocate, for the Appellant; J.C. to A.A.G, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the parties.

2. Petitioner has approached this Court alleging that despite the fact that Certificate Case no. 9/8889 was issued against his father but warrant of arrest has been issued against the present petitioner on 28th October, 2015 (Annexure 3) by the Additional Director, Mining-cum-Certificate Officer, Santhal Pargana, Dumka, respondent no. 2.

3. Petitioner contends that without impleading him in the said certificate case after the death of his father on 9th July, 1993, suddenly warrant of arrest has been issued. Petitioner contends that his father Late Ganesh Pandey was engaged in the business of quarry of stone in Sahebganj and was required to pay royalty to the State Government. It is further contended that the certificate case in question was initiated against his father on a mistake of fact though all royalty had been deposited by him. Objections were also filed under Section 9 before Certificate Officer. Petitioner's father had also given breakup of all amounts. This warrant of arrest now being issued against the petitioner is, therefore, wholly unwarranted and unjustified in the eye of law.

4. Learned counsel for the Respondent State submits that instructions have not been received in the matter as it has taken up for the first time after its filing in March, 2016. However, counsel for the Respondent State submits that petitioner should be directed to approach the respondent no. 2, Additional Director, Mining-cum-Certificate Officer, Santhal Pargana, Dumka, explain his bona fide before the said authority and also deposit the certificate amount for which warrant of arrest has been issued. At this stage, therefore, when the demands of outstanding dues are being sought to be realised through the certificate proceeding and there is a remedy of appeal under Section 60 of the Bihar Public Demand Recovery Act, 2014 (now Jharkhand), no interference should be made.

5. Without getting into the merits of the case of the parties, however, this Court considers it proper to allow liberty to the petitioner, at the first instance, to approach the respondent no. 2, Additional Director, Mining-cum-Certificate Officer, Santhal Pargana, Dumka to explain his bona fide that he was never impleaded as a certificate debtor in the Certificate Case no. 9/8889 even after the death of his father. Therefore, the writ petition is disposed of with a liberty to the petitioner to approach the respondent no. 2, Additional Director, Mining-cum-Certificate Officer, Santhal Pargana, Dumka within a period of 3 weeks from today. On his appearance, the respondent no. 2 would consider the grounds raised by the petitioner, in accordance with law, and take a decision on the issue whether the demand in question is executable against the petitioner in question on the basis of proceedings conducted and the relevant materials relating to Certificate Case no. 9/8989. Needless to say, if the respondent no. 2 is satisfied that the execution of the demand has been made in accordance with law and petitioner is liable for such payment, it would be open for him to take necessary steps thereafter in accordance with law and the petitioner would be liable to pay the outstanding demand as determined in the certificate proceedings. Needless to say there is statutory remedy of appeal under Section 60 of the Act of 2014. For a period of 3 weeks from today, no coercive steps be taken in the instant matter against the petitioner.

6. Interim protection granted shall cease to have effect on expiry of the period of 3 weeks from today.

7. Accordingly, the writ petition stands disposed of.