(2025) 04 JH CK 1312

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1760 Of 2023

Harendra Tiwari	APPELLANT
Vs	
State Of Jharkhand	RESPONDENT

Date of Decision : 08-04-2025

Acts Referred:

Bihar and Orissa Public Demand Recover Act, 1914 — Section 4, 5, 6, 7, 9, 11, 63

Citation : (2025) 04 JH CK 1312

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Sidhartha Roy, Sachin Kumar, Surbhi

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. Heard learned counsel for the parties.

2. In the instant Writ application, the Petitioner has prayed for quashing of the order dated 22/10/2022 (Annexure-6); whereby final order has been passed in Certificate Case No. CIII 55/22-23 by the 2nd Respondent without considering the objection dated 23/09/2022 (Annexure-5), filed by the Petitioner u/s 9 of The Bihar and Orissa Public Demand Recover Act, 1914 (In short PDR Act).

3. Petitioner has further prayed for quashing of the order dated 20/01/2023 (Annexure-7); whereby review application preferred by the petitioner u/s 63 of PDR Act has been dismissed without hearing the petitioner.

4. The brief facts of the case as per the pleadings are that the truck of the Petitioner bearing registration no-NL01G 8964 was seized on 22.01.2022 by the Motor Vehicle Inspector, Godda and kept in Godda Police Station for violation of provisions of Motor Vehicle Act and Rule as well as Jharkhand Motor Vehicle Taxation Act along with its Rules. After seizure of the vehicle of the Petitioner, vide notice dated 28.01.2022, a sum of Rs. 18,17,950/- was demanded to be

paid by the Petitioner as arrear tax including fine by the Motor Vehicle Inspector, Godda.

Thereafter, Petitioner preferred an appeal before D.T.O. Godda and during pendency of the appeal, the certificate proceeding was initiated and the final order was passed vide order dated 22/10/2022. Against the said order, the Petitioner filed a review application under section 63 of P.D.R. Act which was also rejected by certificate officer on 20.01.2023.

5. Learned Counsel for the petitioner submits that the mandatory provisions U/s 4, 5 & 6 of PDR Act mandates filing of requisition for certificate by the certificate holder before the certificate officer. Section 5 mandates filing of written/ requisition in a prescribed form which has not been done in the present case.

He further submits that in the present case, the certificate holder instead of filing a requisition for certificate before the certificate officer, has filed a prosecution report and just written a letter dated 22/09/22 (Annexure- 3) apprising the certificate officer regarding the violation of provisions of M.V. Act as well as Jharkhand Motor Vehicle Taxation Act by the petitioner which is apparent from serial 1 & 2 of the said letter and no requisition for certificate has been filed by the certificate holder.

6. Learned Counsel further submits that as per Section 5 of PDR Act, only after requisition is filed before the certificate officer and when only the certificate officer is satisfied that the demand is recoverable and the recovery is not barred by any law, he shall cause the certificate to be filed in his office.

7. Learned Counsel further submits that pursuant to issuance of notice u/s 7 of the PDR Act, the petitioner on 23/09/22 appeared before the certificate officer and filed 2 applications; firstly Objection u/s 9 of PDR Act and secondly application for release the goods (asbestos sheets) which were loaded in his truck and seized by the Motor Vehicle Inspector, Godda; however, order was passed only on the 2nd application which was filed for release of the goods. No order was passed in the 1st application whereby objection u/s 9 of PDR Act was filed by the petitioner which is evident from the order sheet of the certificate case which is at Annexure- 7. Relying upon the aforesaid grounds; petitioner prays for quashing of final order passed in certificate case as well as order passed in review application.

8. Learned Counsel for the respondent submits that even after black listing of the said vehicle, the owner of the vehicle was noticed and asked to present his case through his counsel or appear in person. Even paper publication was made in the newspaper to pay the amount of outstanding road tax and compounding.

Even after the lapse of the considerable amount of time, the vehicle owner has not shown any positive interest in paying the amount of the withstanding Road Tax and mitigation to the Government fund, neither has any evidence related to the payment of the said amount to the Government Treasury, nor has he presented any letter regarding the same before the authority. Therefore, respondent after perusal of the material and documents presented before him has directed the petitioner to pay the arrear of taxes after compounding of tax amounting to Rs. 18,17,950/-.

He further submits that respondent authority has rejected the review application of the petitioner after hearing both the parties and perusing the evidences produced thereupon and has passed order; as such, no relief should be granted to the petitioner.

9. Having heard learned counsel for the parties and after going through the documents annexed with the respective affidavits it appears that after seizure of the vehicle of the petitioner for violation of provision of Motor Vehicle Act & Rules and also Jharkhand Motor Vehicle Taxation Act and its Rules; vide notice dated 28.01.2022, a sum of Rs. 18,17,950/- was demanded to be paid by the petitioner as arrear tax including fine by the Motor Vehicle Inspector, Godda. Thereafter, the petitioner preferred appeal before D.T.O. Godda and during pendency of the appeal, the certificate proceeding was initiated and the final order was passed on 22/10/2022.

10. The main contention raised by the petitioner is that objection u/s 9 of the P.D.R. Act filed by the petitioner was never taken into consideration. It is evident from the application u/s 9 of the PDR Act (Annexure- 5), it was filed before the Certificate Officer on 23/09/22 but was never considered.

As a matter of fact, pursuant to issuance of notice u/s 7 of the PDR Act, the petitioner on 23/09/22 appeared before the Certificate Officer and filed two separate applications; firstly, Objection u/s 9 of PDR Act and secondly, application for release the goods (asbestos sheets) which were loaded in his truck and seized by the Motor Vehicle Inspector, Godda.

However, order was passed only on the 2nd application which was filed for release of the goods and no order was passed in the 1st application whereby objection u/s 9 of PDR Act was filed by the petitioner which is evident from the order sheet of the certificate case (Annexure- 7).

As a result, no consideration has been given to the application filed by the petitioner u/s 9 of the PDR Act as in the order sheet itself it is nowhere stated that any direction for filing of reply to the same was given to the Certificate Holder nor any order has been passed rejecting the objection u/s 10 of the PDR Act.

11. For this issue it is necessary to refer relevant paragraph of judgement passed by this court in Sanjay Singh vs The State of Jharkhand & others 2015 SCC Online Jhar 2058

5"……………… 14. When certificate may be executed.- No step in execution of a certificate shall be taken until the period of thirty days has elapsed since the date of the service of the notice required by Sections 7 and 11, or when a petition has been duly filed under Section 9, until such petition has been heard and determined.”……..

6. From the proceeding in the Certificate Case, as noticed above, it is apparent that objection filed by the petitioner was not decided. In fact, the respondent-District Mining Officer did not file reply to the objection filed by the petitioner. The proceeding has been conducted irregularly, is apparent from the aforesaid narration of facts.

7. Considering the above facts, I am of the opinion that impugned order dated 25.06.2013 is liable to be quashed and is hereby quashed. The petitioner is permitted to submit objections supplementing the objection already filed by him. The Certificate Officer is directed to decide the objection of the petitioner, first, within four weeks………….”

12. Having regard to the aforesaid facts as well as the judgement passed by this Court in aforesaid case, order dated 22/10/2022 (Annexure-6); whereby final order has been passed in Certificate Case as well as the order dated 20/01/2023 passed in review application (Annexure- 7), are hereby, quashed and set aside and the matter is remitted back to the Certificate Officer, Godda, to pass fresh order, in accordance with law after considering the objection filed by the Petitioner under Section 9 of the P.D.R. Act, 1914.

13. As a result, the instant application stands allowed in the manner indicated hereinabove. Pending I. As, if any, also stands closed.

