
(2020) 12 JH CK 0129
In the Jharkhand High Court
Case No : Writ Petition(C) No. 3719 Of 2020

Ranjeet Kumar

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 16-12-2020

Acts Referred:

Bihar and Orissa Public Demands Recovery Act, 1914 — Section 7, 9, 14, 15

Citation : (2020) 12 JH CK 0129

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Rajendra Krishna, Neeta Krishna, Amit Sinha, Ashok Kumar Yadav, Akash Deep, Dr. Ashok Kumar Singh

Judgement

The present writ petition is taken up today through Video conferencing.

The present writ petition has been filed for quashing the entire certificate proceeding being Certificate Case No. 01/2019-20 initiated by the

respondent no. 2 - the Certificate Officer-cum-Sub- Divisional Officer, Hazaribagh merely on the basis of letter no. 657 dated 31.05.2019 (Annexure-

1 to the writ petition) issued by the respondent no. 3 - the District Manager, Jharkhand State Food and Civil Supplies Corporation Limited, Hazaribagh

as the initiation of the said certificate proceeding itself is illegal and without jurisdiction as well as the alleged amount due against the petitioner does

not come under the purview of public demand. The petitioner has also prayed for quashing the order dated 11.09.2020 passed by the respondent no. 2,

which has been communicated to the respondent no. 3 vide memo no. 1278 dated 15.09.2020 (Annexure-6 to the writ petition), whereby the petitioner

was ordered to be sent to civil prison after issuing warrant of arrest against him due to non-payment of the certificate amount as well as failure in

producing any concrete evidence in relation to depositing the certificate amount, despite the fact that the notice said to have been issued to the

petitioner under Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as "PDR Act") was not duly served

upon him. The petitioner has further prayed for quashing committal order dated 11.09.2020 (Annexure-7 to the writ petition) issued under the signature

of the respondent no. 2 addressed to the Officer-in-Charge, Civil Prison, Hazaribagh sending the petitioner to civil prison after taking him in custody.

Further prayer has been made for his release from the civil prison.

2. Mr. Rajendra Krishna, the learned counsel for the petitioner, submits that the petitioner is one of the Directors of Maa Kamakhya Rice Plant

situated at Village-Babhni, Hazaribagh. The said plant is a registered unit (for production of rice, rice bran) with District Industries Centre,

Hazaribagh. The petitioner is the certificate debtor and the respondent no. 3 is the certificate holder in Certificate Case No. 01/2019-20. The main

submission of the learned counsel for the petitioner is that the petitioner was illegally arrested on 11.09.2020 on the basis of warrant of arrest issued by

the respondent no. 2 vide order dated 05.07.2019 for the purpose of depositing outstanding certificate amount and was remanded to civil prison vide

order dated 11.09.2020 on the ground that the petitioner (the certificate debtor) failed to deposit the certificate amount in course of implementation of

the warrant of arrest issued against him. It is further submitted by the learned counsel for the petitioner that the notice purportedly issued under

Section 7 of the PDR Act by the respondent no. 2 in the concerned certificate case was not properly served to him as would be evident from the

service report submitted by the Block Supply Officer, Sadar, Hazaribagh to the respondent no. 2 on 06.06.2019. As per the said report, the notice

under Section 7 of the PDR Act was served to Sri Ganga Sao - the father of the petitioner. The said report further reveals that when the concerned

person went to Maa Kamakhya Rice Plant to know the whereabouts of the petitioner, the employees who were present there told him that the said

rice mill was being run by one Sri Vijay Prasad, a resident of Hazaribagh for last 2½ years. Under the said factual context, it was highly arbitrary on

the part of the respondent no. 2 to observe in the order dated 07.06.2019 that the notice issued to the petitioner (the certificate debtor) was duly

served. Due to non-service of notice upon the petitioner, he was deprived of filing an objection under Section 9 of the PDR Act in the said certificate

proceeding. The arbitrariness on the part of the respondent no. 2 would further be evident from the fact that though vide order dated 07.06.2019, the

next date in the certificate case was fixed for 22.06.2019, yet the same was not listed on the said date i.e., 22.06.2019 and subsequently, vide order

dated 05.07.2019, the warrant of arrest was issued to the petitioner. Thereafter, the petitioner was arrested and produced before the respondent no. 2,

who vide impugned order dated 11.09.2020, without specifying as to whether the properties of the petitioner could have been attached for the purpose

of realisation of the certificate amount, merely observed that the petitioner did not produce any concrete evidence for depositing the certificate amount

and he was taken into custody and sent to undergo civil imprisonment for six months. This Court, vide order dated 16.10.2014 passed in W.P.(C) No.

4566 of 2014 (Suresh Prasad Mehta Vs. the State of Jharkhand & Anr.) while relying on an earlier judgment rendered by the Hon'ble Patna High

Court in the case of ""Dasharath Sharma Vs. State of Bihar & Ors."" reported in 2005 (3) PLJR 68,7 has observed that in absence of any statement

made that the certificate debtor has been trying to conceal his property or he was trying to dispose of the property or he has made a false statement,

he could not be sent to civil prison. The said statement/satisfaction on the part of the respondent no. 2 is also absent in this case. Hence, by way of an

interim measure, the civil prison being undergone by the petitioner in terms with order dated 11.09.2020 issued by the respondent no. 2 may be

suspended during the pendency of the present writ petition.

3. Mr. Ashok Kumar Yadav, the learned GA-I appearing on behalf of the State respondents, submits that since despite service of notice issued by the

respondent no. 2 under Section 7 of the PDR Act to the petitioner, he did not choose to file an objection under Section 9 of the PDR Act, the

respondent no. 2 proceeded to execute the certificate proceeding in terms with Section 14 and 15 of the said Act and hence, the impugned order dated

11.09.2020 by reasons of which the petitioner has been sent to undergo civil prison for six months is valid in law.

4. Considering the aforesaid submission of the learned counsel for the parties, the Court is of the view that the present writ petition requires

consideration. Hence, the respondent nos. 1, 2 and 4 as well as the respondent no. 5 are directed to file respective counter affidavits within a period of six weeks.

5. Put up this case under the heading ""For Admission"" after six weeks.

6. In the meantime, the civil prison being undergone by the petitioner in terms with impugned order dated 11.09.2020 passed by the respondent no. 2

(Annexure-6 to the writ petition) shall remain suspended.

7. The Jail Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh, is directed to release the petitioner from civil prison forthwith,

which shall be subject to the outcome of the present writ petition.

8. Let this order be communicated to the Jail Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh through FAX on depositing the cost on behalf of the petitioner.