
(2002) 04 JH CK 0047
In the Jharkhand High Court
Case No : CWJC No. 829 of 2000

Sri Mahendra Kar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 30-04-2002

Acts Referred:

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

Citation : AIR 2002 Jhar 153

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : A.K. Sahani, for the Appellant; A.B. Mahto, JC to GP II, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Heard the parties.

2. From perusal of the affidavits it appears that it is a fit case where, instead of directing the petitioner to avail alternative remedy, this Court should dispose of this writ application on merits.

3. The petitioner, as an agent under Jawahar Rojgar Yojna Scheme, was allotted certain tender for execution of repairing works. While the work was in progress, it was suddenly stopped by the District Development Commissioner, Singhbhum East and a direction was issued to the S.D.O. Ghatshila to initiate a certificate proceeding. Accordingly requisition was sent to the Collector for a recovery of a sum of Rs. 48,313/- from the petitioner. The Certificate Officer, Ghatshila issued notice u/s 7 of the P.D.R. Act calling upon the petitioner to file objection u/s 9 of the Act. The petitioner, accordingly, filed objection u/s 9 of the Act. The certificate officer, instead of deciding the objection of the petitioner on merit, held that there is clear cut direction from the Deputy Commissioner to recover the certificate amount by the said certificate proceeding. In view of the direction of the Deputy Commissioner for recovery of the certificate amount, the

Certificate Officer rejected the objection and proceeded for issuance of distress warrant.

4. From bare perusal of the order sheet of the certificate case it is clear that the Certificate Officer has no elementary knowledge of law. While exercising statutory function as a Certificate Officer, he was not supposed to proceed with the certificate case as per the direction of the Deputy Commissioner. The Collector of the District and the petitioner were equal before the Certificate Officer and the certificate officer had to decide the objection on merit instead of proceeding in the certificate case on the basis of the direction of the Deputy Commissioner.

5. On this ground alone the impugned order passed by the Certificate Officer rejecting the objection of the petitioner u/s 9 of the Act and issuing distress warrant is wholly illegally and without jurisdiction.

6. This writ application is, therefore, allowed. The impugned order dated 28.6.1998 and 21.7.1999 passed in the certificate case are set aside. The matter is remitted back to the Certificate Officer, Ghatshila to pass fresh order on the objection filed by the petitioner after giving reasonable opportunity of hearing to the parties.