

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 1178 of 2015

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G. Vaidyanathan --- --- ---- Petitioner

Versus

1. Jharkhand Urja Vikas Nigam Limited through its Chairman
2. The General Manager-cum-Chief Engineer, Singhbhum Area Electricity Board, Jharkhand Urja Vikas Nigam Limited
3. The Electrical Superintending Engineer, Electric Supply Circle, Adityapur, Jharkhand Urja Vikas Nigam Limited
4. Chief Engineer (Commercial and Revenue), Jharkhand Urja Vikas Nigam Limited
5. Jharkhand State Electricity Regulatory Commission
6. The State of Jharkhand through its Chief Secretary
7. Certificate Officer (Electric and Revenue), Board I.B. Karandih ---Respondents

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CORAM: The Hon'ble Mr. Justice Aparesh Kumar Singh

For the Petitioner: Mr. M.S. Mittal, Sr. Advocate, Ms. Shilpi John, Advocate

For the Respondents: Mr. Ajit Kumar and Mr. Rahul Kumar, Advocates

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05/ 30.04.2015 Heard counsel for the parties.

2. It appears that the petitioner has been served with a notice under section 7 of Bihar and Orissa Public Demand Recovery Act, 1914 (now adopted by the State of Jharkhand) (Annexure-12), whereby he has been asked to give his reply denying his liability, in whole or part, within 30 days from issuing this notice and if within the same period he fails to file such a petition or show-cause or fails to deposit the demanded amount under the certificate and file money receipt to the Court, he is prohibited from alienating his immovable property or any part of it. Petitioner admittedly has filed his show-cause.

3. Learned Senior Counsel for the petitioner submits that the petitioner has already filed his show-cause before the Certificate Officer and in fact, hearing on his objection has commenced on 25.04.2015. Arguments of the petitioner and other certificate debtors are to be heard on 07.05.2015. Learned Counsel for the petitioner however submits that the petitioner was a Company Secretary of the instant company-M/s Tata Yodogawa Ltd and there has been cessation of his service with effect from 15.05.2010, as would be also obvious from Form-32 (Annexure-16) submitted by the company before the Registrar of Companies. In such circumstances, the notice itself is without jurisdiction and there is no liability upon the present petitioner. He submits that the proceedings therefore are wholly

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without jurisdiction and needs to be quashed.

4. Counsel for the respondents-JUVNL however submits that the petitioner has already responded to the notice before the Certificate Court, which is governed by the Act of 1914, which is complete Code in itself. The petitioner has straightaway come against the notice under section 7 of the Act of 1914 asking for his objection, denying the liability on which Certificate Officer is required to take a decision. Therefore, the writ petition is wholly premature and should not be entertained as the petitioner is already before the Forum statutorily provided.

5. I have heard leaned counsel for the parties and gone through the relevant materials on record including the impugned notice. As would be evident from foregoing facts, petitioner has straightaway moved this Court on issuance of notice under section 7 of the Act of 1914 for realization of dues of Rs. 2,63,60,97,051/- on account of energy and other dues on account of M/s Tata Yodogawa Ltd. Whether petitioner is liable to honour the certificate or he does not have the liability, is the question which is within the domain of the Certificate Officer to determine upon furnishing of the reply / objection of the petitioner before him which he has already done. Needless to say, it would be open for the petitioner to raise all such grounds of law and facts including the preliminary objection before the Certificate Officer who, however, would not be prejudiced by the fact that the petitioner had approached this Court in the present writ petition. Therefore, when the petitioner is already before the alternative statutory forum which provides for a laid down procedure to determine the liability of persons, this Court is not inclined to entertain this writ petition at this stage as it is premature.

7. However, it would be open to the petitioner to raise all issues of law including the question of jurisdiction before the Certificate Officer. This Court is however not inclined to interfere in the instant writ petition, which is accordingly dismissed.

(Aparesh Kumar Singh, J)