

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.965 of 2019

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Vinay Yadav @ Binay Yadav, aged about 48 years, Male, Son of Ramashray Yadav, Resident of Village- Madhura, P.S.- Tarapur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The, Principal Secretary, Excise Department, Govt. of Bihar Patna.
3. The Collector cum District Magistrate, Munger.
4. The Superintendent of Excise, Munger.
5. The Certificate, Officer, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
For the UOI	:	Mr. Anshuman Singh, Sr. SC, CGST
For the State	:	Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-10-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“I. For commanding and directing the respondents, to Set Aside entire proceeding of Certificate Case No. 11/14-15, Pending before the learned Certificate Officer, District Munger.

II. For holding that, there is apparent non-compliance of mandatory provisions of Bihar and Orissa, Public Demand Recovery Act.

III. For commanding and directing the respondents, to stay certificate notice dt. 26.8.2014,



issued in Certificate Case No. 11/2014-15.

IV. For any other relief(s) for which petitioner is found entitled in the eye of law.”

It is not in dispute that petition under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) is pending consideration/petitioner intends to file before the appropriate authority.

Learned counsel for the parties jointly pray that the instant petition be disposed of with direction to the appropriate authority to consider and decide the same expeditiously.

Learned counsel for the State states that the appropriate authority shall consider and decide the petition filed/ to be filed by the petitioner under Section 9 of the Act positively within a period of two months from the date of appearance of the petitioner before him along with a copy of this order and the issue of limitation shall not come in the way of decision on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall appear in the office of the



appropriate authority on **4th of November, 2022** along with a copy of this order, on which date documents in support of the petition shall be filed, or else file a fresh petition under Section 9 of the Act.

(b) The appropriate authority shall consider and dispose of the petitioner's petition expeditiously, by a reasoned and speaking order, preferably within a period of two months from the date of appearance of the petitioner before him and till then no coercive steps be taken against the petitioner;

(c) The authority shall also examine as to whether the amount in question falls within the definition of public demand or not;

(d) The authority shall also examine all issues including question of fact and law;

(e) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing as also leading evidences has to be afforded to the parties;

(f) Order assigning reasons shall be supplied to the parties;

(g) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available



in accordance with law;

(h) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(i) Liberty reserved to the petitioner to challenge the order passed by the appropriate authority, before the appropriate forum, if so required and desired.

(j) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	18.10.2022
Transmission Date	

