

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8150 of 2019

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Om Prakash Yadav son of Shri Umesh Kumar Yadav @ Chhedi Yadav
resident of Mohalla - Kashim Bazar, P.S. - Kashim Bazar, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar at Patna.
2. The Commissioner, Bihar at Patna
3. The Deputy Commissioner Excise, Bihar, Patna
4. The Deputy Commissioner, Bhagalpur-Cum-Munger-Division.
5. The Excise Superintendent, Munger, District- Munger.
6. The Certificate Officer, Munger, District - Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
		Mr. Satyendra Prasad Singh, Advocate
For the Respondent/s	:	Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-11-2022

Heard learned counsel for the parties.

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

- I. That the present writ application is being filed in the nature of *Certiorari* for quashing the certificate case no. 04/2014-15 initiated by the Certificate Officer, Munger against the petitioner for recovery of the amount of Rs. 46,15,350/- in the light of the requisition filed by the



Excise Superintendent, Munger; on the ground that the certificate is incorrect and improper and not in accordance with the law, the places are blank, the recitals are not correctly filled up, hence, it is a not a decree in the eye of law nor a certificate in the eye of law and thus the entire proceeding is without jurisdiction;

- II. For any other relief/Reliefs for which the petitioner is entitled for.

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 three 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 16th 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 three 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) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

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

(f) Equally, liberty is reserved to the petitioner to take



recourse to such alternative remedies as are otherwise available in accordance with law;

(g) 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;

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

(i) 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, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.11.2022
Transmission Date	

