

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16276 of 2022

Sanjay Kumar son of Raghunandan Mehta, proprietor of M/S Shree Industries Rice Mill, resident of village - Rajabigha, P.O.- Pidrawan, P.S. Jamhor, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Patna, Bihar at Patna.
2. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Office at Khadya Bhawan, Daroga Prasad Path, R-Block Road No. 2, Patna - 800001.
3. The Managing Director, the Bihar State Food and Civil Supplies Corporation Office at Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001.
4. The District Manager, Bihar State Food and Civil Supplies Corporation, District- Aurangabad.
5. The District Certificate Officer, Aurangabad, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr.S. Raza Ahmad, AAG 5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 25-11-2022

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

“That the present writ application is being filed in the nature of Certiorari for setting aside the entire certificate proceeding of Certificate Case No. 88/2014-15 pending before the District Certificate Officer, Aurangabad on the ground that the arbitration has commenced and an order has been passed in Request



Case No. 112/2018 dated 16.08.2019 by the independent Arbitrator (Hon'ble Mr. Justice Jitendra Mohan Sharma, Former Judge, Hon'ble Patna High Court) and thus the entire certificate case is a nullity in the eye of law;

ii. That the present writ application is being filed in the nature of certiorari for a setting aside the issuance of warrant against the petitioner in certificate case no. 88/2014-15 (Annexure-P-5 of the Writ Application) on the ground that the arbitration has commenced and has concluded and there can't be recovery through the certificate proceeding;

iii. 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 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 19.12.2022 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) 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, stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

chn/-

AFR/NAFR	
CAV DATE	
Uploading Date	28.11.2022
Transmission Date	

