

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4987 of 2020

Prince Kumar Singh son of Upendra Bahadur Singh proprietor of Lal Singh Mini Rice Mill, Bhateya, resident of Babu Muhalla, P.S.- Kudra, District Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Patna, Bihar at Patna.
2. The Food and Consumer Protection Department through its the Principal Secretary, Bihar at Patna.
3. 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.
4. 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.
5. The District Manager, Bihar State Food and Civil Supplies Corporation, District- Kaimur.
6. The District Certificate Officer, Kaimur, District- Kaimur.
7. The Officer In- Charge, Kudra, District- Kaimur (Bhabhua).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate
For the State	:	Mr. S. Raza Ahmad (AAG 5)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-10-2022

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

“i. That the present writ application is being filed in the nature of Certiorari for setting aside the entire certificate proceeding of Certificate Case No. 42/2014-15 issued by the District



Certificate Officer, Kaimur at Bhabhua against the petitioner on the ground that the certificate (Annexure-2) is blank at many places and the entire certificate proceeding is without jurisdiction, also that the notice which has been issued to the petitioner vide Annexure-P-5 is without having a certificate or a requisition and thus, the entire proceeding is without jurisdiction.

ii. That the present writ application is being filed in the nature of certiorari for a setting aside the certificate case no. 42/2014-15 on the ground that the entire action is without jurisdiction and therefore, the warrant issued against the petitioner dated 09.12.2019 (part of Annexure-P-5) is without jurisdiction and hence be set aside.

iii. That the present writ application is being filed in the nature of Mandamus for a direction to the District Certificate Officer, Kaimur at Bhabhua to not proceed in Certificate Case No. 42 of 2014-15 till the matter is adjudicated by the independent person as the amount is disputed and same is hit by Certificate Manual Board Resolution No. 10;

iv. 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 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 09.11.2022 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)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.10.2022
Transmission Date	

