

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6386 of 2019

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Ashutosh Kumar (Male) aged about 28 years, Son of Anil Kumar Singh R/o
Prabhat Colony, Near-Bhutnath Mandir Cowk, P.S.-K. Hat, District-Purnia

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector cum District Magistrate, Purnea
2. The Certificate Officer, Purnea
3. The Branch Manager Andhra Bank, Chitravani Cinema Road, Bhatta Bazar, Purnea
4. The Superintendent of Police (S.P.) Purnea
5. The S.H.O. of the K. Hat Police Station Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bipin Bihari Singh, Advocate Mr. Shyame Kant Singh, Advocate
For the Respondent no. 3	:	Mr. Shivendra Kumar Roy, Advocate Mr. Jitendra Kumar Roy, Advocate

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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):-

“A. For the issuance of writ in nature of certario for quashing or set aside the proceeding of Certificate Case No. 360/2018-19 initiated by Certificate Officer, Purnea (respondent no. 2) whereby and where-under the said respondent authority in complete violation of law, without serving Notice prescribed U/s 7 and further without giving reasonable opportunity of hearing by way of filling show cause U/s 9 of the Bihar and Orissa



Public Demands Recovery Act, 1914 issued warrant of arrest dated 05-02-2019 against the petitioner for enforcing the Certificate amount of Rs. 372127/- mentioned in the so called certificate notice which is never served upon the petitioner till date.

B. For grant of stay or kept in abeyance to warrant of arrest dated 05-02-2019 issued by the Certificate Officer, Purnea in connection with Certificate Case No. 360/2018-19 whereby and where-under the respondent authority given direction to the S.H.O of the K. Hat P.S to make arrest of petitioner.

C. For direction to the Certificate Officer, Purnea to allow petitioner to exercise his statutory right given U/s 9 of the Bihar and Orissa Public Demands Recovery Act, 1914 for filing of show cause against the Certificate Case No. 360/2018-19.

D. And for any other reliefs/reliefs for which the petitioner is found to be entitled under the provision of law involved in the present case.”

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	

