

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5642 of 2022

=====

Jitendra Chawdhary Son of Gajendra Chawdhary, Resident of Village -
Fursatpur, Bairiya P.O. - Chandrshuya, P.S. - Muffasil, District - East
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, East Champaran,
Motihari.
2. The District Certificate Officer East Champaran, Motihari.
3. The Branch Manager, Uttar Bihar Gramin Bank, Gyan Babu Chowk,
Motihari.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Mishra, Advocate Ms. Priyanka Kumari, Advocate
For the Respondent/s	:	Mr. Raghwendra Kumar (SC-22)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-05-2022

Heard learned counsel for the parties.

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

- (i) To quashed the entire certificate proceedings
including the notice dated 21-01-2021 in
Certificate Case No.. 17/ G.B.-2017-2018 by which
the learned Certificate Officer East Champaran,
Motihari issued notice to the petitioner to appear
before the certificate officer and file show cause



by 26-02-2021 as to why not you be arrested for non-payment of the certificate amount of Rs. 6, 04, 934/- (Rupees six lac four thousand and nine hundred thirty four) only which is not permissible in the eye of law and it is gross case of misusing power under the certificate proceeding/ because under what material produced by the Bank to the Certificate officer on the basis to the same the such notice, which is under challenged is issued is also time barred. In spite of notice which is under challenged the petitioner appeared before the certificate officer and filed show-cause on 26-02-2021 and without disposing/ hearing the same the show –cause and not any order has been passed under section -11, the certificate officer exercise his power without disposing show-cause dated 26-02-2021.

- (ii) To direct the respondent Bank to furnished the details of payment of the loan of Rs. 5,00,000/- for running the vehicle factory after deducting the subsidy amount of 35% but in-spite of that the Bank has failed to given the correct figure of amount against the loan taken by the petitioner on 18-10-2012, but bank has failed to do so.
- (iii) To direct the certificate officer first to hear the petitioner on show-cause filed by him u/s 9 of the P.D.R. Act but as yet neither the show cause has disposed of u/s 11 of the Act and threatening to send jail which is completely violation of principle of natural justice.
- (iv) To any other relief/s to which the petitioners are entitled in the facts and circumstances of the 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 **6th of June, 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)

(Satyavrat Verma, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	20.05.2022
Transmission Date	

