

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7120 of 2019

1. Azad Kumar Yadav, Son of Late Shiv Lal Yadav, Resident of Village-Shankarpur, P.S.-Muffasil, Distt.-Munger.
2. Kundan Kumar Yadav, Son of Late Shiv Lal Yadav, Resident of Village-Shankarpur, P.S.-Muffasil, Distt.-Munger.
3. Dipak Kumar Yadav, Son of Late Shiv Lal Yadav, Resident of Village-Shankarpur, P.S.-Muffasil, Distt.-Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department, Government of Bihar, Patna.
2. The District Magistrate, Munger.
3. The District Supply Officer, District-Munger.
4. The District Nilam Patra Padadhikari- Cum-Certificate Officer, District-Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar Choudhary, Advocate
For the Respondent/s : Mr. U.S.S.Singh (GP 19)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-10-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

“a) To quash the demand notice
as contained in Memo No. 249 dated
05.02.2019 issued by Respondent No. 4
whereby and whereunder the Petitioners
whereby and whereunder the Petitioners



were asked to deposit 50% of pending amount in connection with SGRY Misc Case No. 36/11-12 as the same is bad in law and in gross violation of the statutory provisions.

b) To quash the SGRY Misc Case No. 36/11-12 pending against the petitioners before the Respondent No. 4 as the same was initiated on a mistake of law and fact without considering the fact that the petitioners never held any licence for PDS/ Fair price shop at any point of time.

c) For a direction upon the Respondents to not to give effect to Memo No. 249 dated 05.02.2019 during the pendency of the writ application.

d) For a direction upon the Respondents to stay further proceedings in Memo No. 249 dated 05.02.2019 during the pendency of the writ application.

e) To pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand.”

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/petitioners intend 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 petitioners under Section 9 of the Act positively within a period of two months from the date of appearance of the petitioners 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) Petitioners shall appear in the office of the appropriate authority on **7th 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 petitioners' petition expeditiously, by a reasoned



and speaking order, preferably within a period of two months from the date of appearance of the petitioners before him and till then no coercive steps be taken against the petitioners;

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

(h) We are hopeful that as and when petitioners take 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 petitioners 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/-

AFR/NAFR	
CAV DATE	
Uploading Date	20/10/2022
Transmission Date	

