

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6221 of 2022

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Mithilesh Kumar Singh son of Late Gauri Singh, resident of Gauri Kutir,
Anugarah Nagar, P.S. Dhansar, District Dhanbad, Jharkhand-828106.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
2. The Principal Secretary cum Commissioner Mines, Department of Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna 800001.
3. The Director, Mines and Geology Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Deputy Director, Mines and Geology, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
5. The District Magistrate-cum-Collector, Bhojpur, Ara.
6. The Mineral Development Officer, Bhojpur, Ara.
7. The District Certificate Officer cum District Rural Development Authority, Bhojpur.
8. The District Certificate Officer cum District Panchayati Raj Officer, Bhojpur.
9. The District Certificate Office cum District Transport Officer, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate Mr.Avinash Shekhar, Advocate Mr.Rajan Prakash, Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha, GA-7 Mr.Naresh Dikshit, Spl. P.P., Mines

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 18-05-2022 Heard learned counsel for the parties.

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

(1) To issue an appropriate writ, order or direction in



the nature of *certiorari* for quashing the notices under section 7 of the Bihar and Orissa Public Demand Recovery Act 1914 dated 23.03.2022 issued by the Respondent no. 7 in Certificate case no. 1 / 2021; Respondent no. 8 in Certificate Case no. 26/21-22, Certificate Case no. 27/21-22, Certificate Case no. 28/21-22, Certificate Case no. 30/21-22 and Certificate Case no. 31/21-22 and Respondent no. 9 in Certificate Case no. 32/2021- 22, Certificate Case no. 33/21-22, Certificate Case no. 34/21-22, Certificate Case no. 35/21-22, Certificate Case no. 36/21-22, Certificate Case no. 37/21-22, on the grounds that the corporate civil liability of the company cannot be fastened on the directors/former director of the company in a certificate proceeding under Bihar and Orissa Public Demand Recovery Act 1914.

(ii) This Hon'ble Court may adjudicate and hold that the certificate cases already having been instituted against the company, the Respondent Certificate Officers could not have issued notices under section 7 of the Bihar and Orissa Public Demand Recovery Act 1914 and proceeded against the erstwhile and/or present directors and/or other managerial personnel of the company.

(iii) This Hon'ble Court may further adjudicate and hold that a company being a separate juristic entity capable of suing and being sued in its name, its corporate civil liability cannot be fastened upon and enforced against its officers including its directors



and/or managing directors, without there being a specific inter-party agreement in this regard and/or without operation of any statute in this regard.

(iv) This Hon'ble Court may further adjudicate and hold that execution of certificate against the directors or any other personnel of the Company for the dues of the company cannot be resorted to.

(v) This Hon'ble Court may further adjudicate on hold that any debt payable by a company can be realised only by seizing the assets of the company, which is a juristic person, and not from its directors personally.

(vi) This Hon'ble Court may further adjudicate and hold that any act done by a person during his stint with a company will not make him personally liable for the dues of the company.

(vii) This Hon'ble Court may further adjudicate and hold that the action of Respondents Certificate Officers, being quasi-judicial bodies, in issuing notices to the Petitioner and subjecting the petitioner to stringent penal provisions of the Act is an act of mala fide and tantamounts to abuse of power.

(viii) This Hon'ble Court may award the cost of litigation and suitable compensation to the Petitioner for the loss and damages caused on account of the illegal and arbitrary actions of the Respondent Authorities.

(ix) To grant any other relief or reliefs which the Petitioner may be found entitled to 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)

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