

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6796 of 2022

Bikrama Prasad Son of Late Ram Gahan Ram, Resident of village-Karamdih,
P.S.-Barun, Dist-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Finance Department.
2. The District Magistrate, Aurangabad.
3. The District Certificate Officer, Aurangabad.
4. The Block Development Officer, Kutumba, Aurangabad.
5. The Senior Auditor-02, Finance (Audit) Department, Gaya Division, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate
For the Respondent/s : Mr.Anil Kumar Singh (Gp 26)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-06-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- (i) Issuance of a writ in nature of writ of certiorari to set aside/quash the certificate proceeding vide certificate case no. 239/18-19 issued from the court of Ld Certificate officer, Aurangabad (Resp. No. 3) dated

17.11.2018 issued for alleged recovery of Rs 390000/- despite the fact that not even a single paisa is missing during the period when the petitioner was rendering his services at the block officer, Kutumba block, as the block Nazir and a further notice issued by the same respondent dated 8.20.2022 as contained in Annexure-9 Series of this writ to show cause as to why warrant of arrest be not issued against the petitioner.

- (ii) Issuance of a writ again in the nature of writ of mandamus whereby and whereunder the respondents are directed not to proceed ahead with the certificate proceeding unless and until the entire issue of alleged shortage is examined by the special audit team so constituted by the Finance department.
- (iii) Issuance of any writ/writs, order/orders, direction/directions to to grant relief/reliefs to 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 **07.07.2022** 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)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2022
Transmission Date	NA