

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7561 of 2022

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Gopinath Jha Son of Late Chrinjiv Jha Resident of Village- Dhankaul, Ward No.1, P.S.- Piprahi, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Revenue and Land Revenue Dept., Govt. of Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Collector, Sitamarhi, Bihar.
4. The Sub Divisional Officer, Piprahi, District- Sitamarhi.
5. The District Certificate Officer, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashank Chandra, Advocate
For the Respondent/s : Mr.Md. Khurshid Alam, AAG12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-07-2022

Heard learned counsel for the parties.

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

“for issuance of a Writ in the nature of a Writ of Certiorari for quashing the entire Certificate Case No.9 of 2018-19 pending before the Respondent No.5 against the Petitioner, in view of the fact that the said certificate case has been initiated without ascertaining the actual liability of the Petitioner, as the allegation of defalcation of Rs.13,39,897/- was against 12 persons including the Petitioner, further the amount sought to be recovered is more than the alleged defalcated amount, which renders the



very imitation of the certificate case bad. The Petitioner further prays for issuance of Writ in the nature of Writ of Mandamus, commanding the Respondent no.5 not to take any coercive action against the Petitioner till the liability of the Petitioner is ascertained.”

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 **12th of August, 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	NAFR
CAV DATE	NA
Uploading Date	30.07.2022
Transmission Date	

