

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9035 of 2019

=====

Raja Ram Paswan, S/o Shri Deo Narayan Paswan, Vill.- Kharaita, P.S.-
Chautham, Distt.- Khagaria, At present headmaster of Middle School,
Kharaita under Chautham Block, Distt.- Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Bihar, Patna
2. The District Magistrate Khagaria
3. The District Education Officer Khagaria
4. The District Programme Officer Primary Education, Sarva Shiksha Abhiyan,
Khagaria
5. The Enquiry Officer-cum-District Programme Officer Rashtriya Madhyamik
Shiksha Abhiyan, Khagaria
6. The Block Education Officer Chautham Block, Distt.- Khagaria
7. The District Certificate Officer Khagaria
8. Bambam Kumar Singh, S/o Sitaram Singh Vill.- Kharaita, P.s.- Chautham,
Distt.- Khagaria
9. Mantun Singh, S/o Devdatt Singh @ Dukhi Singh, Assistant Teacher,
Primary School, Kharaita, P.S.- Chautham, Distt.- Khagaria

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Pankaj Kumar Jha, Advocate
For the State	:	Mr. Madhaw Prasad Yadav, GP-23
		Mr. Meera Singh, AC to GP-23
For respondent	:	Mr. Girijesh Kumar, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-10-2022

Heard learned counsel for the parties.

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



- (i) For issuance of any appropriate writ or writs, rule or direction especially in the nature of certiorari, quashing the requisition for a certificate proceeding initiated against the petitioner dated 06.12.2018 issued under the signature of District Programme Officer, Sarva Shiksha Abhiyan, Khagaria whereby and where under direction has been issued to recover Rs. 3,60,771/- with addition to 18 percent interest for five years i.e. Rs. 3,24,694/- total Rs. 6,85,465/- through certificate proceeding for non construction of building scheme assigned for the year 2010 and 2011.
- (ii) For issuance of any appropriate writ or writs, rule or direction especially in the nature of mandamus directing the respondents to exonerate the petitioner from certificate proceeding under auction case no. 42/2018-19 and hold the responsibilities against the private respondents no. 8 & 9 who have misappropriated the government fund and the construction work of the school building has not been completed.



- (iii) For issuance of any appropriate writ or writs, rule or direction as this Hon'ble Court may found fit and proper to the facts and circumstances of the case as well as for which the petitioner may be found entitle thereto.

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 01.11.2022 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)

(Partha Sarthy, J)

Ashwini/Sujit

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	12/10/2022
Transmission Date	NA

