

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12815 of 2021

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M/s J.D. Motors through one of its Partner namely Dilip Kumar Agrawal,
(Male), aged about 55 years, Son of Late Jai Chand Lal Agarwal, Resident of
Subhaspalli Road, Paschimpali, P.S. - Kishanganj, District - Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Transport Department,
Government of Bihar, Patna.
2. The Transport Commissioner, Government of Bihar, Patna.
3. The Deputy Secretary, Transport Department, Government of Bihar, Patna.
4. The District Certificate Officer Cum Sub-Divisional Officer, Kishanganj.
5. The District Transport Officer, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate
Mr. Amish Kumar, Advocate
Mr. Shankar Kumar Chaudhary, Advocate
Ms. Preety Kunwar, Advocate

For the Respondent/s : Mr. Sarvesh Kumar GP 24

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

(Per: HONOURABLE THE CHIEF JUSTICE)
(The proceedings of the Court are being conducted by Hon'ble the Chief
Justice/Hon'ble Judges through Video Conferencing from their
residential offices/residences. Also the Advocates and the Staffs joined the
proceedings through Video Conferencing from their residences/offices.)

Date : 12-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following



relief(s):-

- (i) For quashing the notice dated 26.07.2019 **(Annexure-2)** issued in connection with Certificate Case No. 190 of 2017-18 for an amount of Rs. 7,30,350/- issued by the Respondent No. 4 for recovery of road tax (Short realization of Trade Certificates Fee from the dealer the Petitioner).
- (ii) For further declaration that the initiation and further continuance of Certificate Case No. 190 of 2017-18 by the Respondent No. 4 against the Petitioner is itself not maintainable in terms of the provisions of Motor Vehicle Act, 1988 read with Central Motor Vehicle Rules, 1989.
- (iii) For any other relief/reliefs to which the petitioner is entitled to in the facts and circumstances of the present 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 **7th of February, 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)

Sujit/Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	18.01.2022
Transmission Date	

