

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8888 of 2022

M/s Om Shakti Resources A proprietorship firm through its proprietor Mr. Ram Shyam Prasad, aged about 40 Years (Male) Son of Jwala Prasad, Resident of A-8, SSB Sarni, Near Petrol Pump House, Sector 2C, Durgapur, District- Burddhaman, West Begal 713212.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
2. The Principal Secretary, Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
3. The Director Department of Industries, Government of Bihar, 2nd Floor, Vikas Bhawan, Bailey Road, Patna- 800015.
4. The Managing Director District Industries Centre, Patna.
5. The Additional District Magistrate cum Certificate Officer Department Enquiry, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Avinash Shekhar, Advocate

For the Respondent/s : Mr. Subhash Pd. Singh, GA 3

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-07-2022

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

- i) To issue an appropriate writ, order or direction in the nature of *certiorari* for quashing the entire proceedings of Certificate Case No. 23/19 initiated against the petitioner for recovery of Rs. 9,19,513 / - (Rupees Nine Lakhs Nineteen Thousand Five Hundred and thirteen only) which is pending in the Court of the Certificate Officer cum Additional District Magistrate, Departmental Enquiry, Patna.
- ii) To issue an appropriate writ, order or direction in the nature of a declaration that no amount is recoverable from the Petitioner because a) there was no stipulation under the Bihar Industrial Incentive Policy, 2011 that a unit shall remain in



- operation for a period of five years after grant of subsidy and
- (b) the petitioner has not given any undertaking to that effect.
- iii) To issue an appropriate writ, order or direction in the nature of a declaration that the action of Respondents in seeking to recover the amount of subsidy granted to the petitioner by way of a certificate proceeding is arbitrary exercise of authority/power in utter violation of principles of natural justice.
- iv) To restrain the Respondents from taking any coercive steps against and any other relief or reliefs for which the petitioner is found entitled in the facts and the 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 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) 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/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2022
Transmission Date	

