

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10952 of 2019

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Ravindra Kumar @ Ravindra Kumar Yadav, Son of Suresh Prasad Yadav,
Resident of Village/Mohalla- Dih Jamalpur, near Kaliasthan, P.S.- Jamalpur,
District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, Munger.
3. The Superintendent of Excise, Munger.
4. The District Certificate Officer, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Nath Jha, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-11-2022

Petitioner has prayed for the following reliefs:

“(i) For issuance of writ in the nature of certiorari to
quash the whole proceeding of Certificate Case No
10/2016-17 lodged on the requisition of the Excise
Superintendent of Munger for realisation of Rs
8,68,660/- from the petitioner who has been made
Certificate Debtor for the alleged embezzlement of
Licence fee and due amount of License Fee for
Liquor shop said to be based on Finance Audit No
(face) 22/2015 for the financial year 2010-11.

(ii) For issuance of writ in the nature of mandamus
commanding and directing the Respondents
concerned to enquire the matter properly on the



objection petition filed by the petitioner Under Section 9 of the Bihar and Orissa Public Demand Recovery Act 1914 before District Certificate Officer, Munger in Certificate Case No 10/2016-17.

(iii) For holding and declaration that petitioner deserves not to liable or responsible for the amounts as requisitioned by the Excise Department in Certificate Case because of the fact that he never participate in auction of License for liquor shop due to money and the application for license of liquor shop remained unattended.

(iv) And/or pass such other order or orders as deemed fit and proper in the interest of justice.”

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 30.11.2022 at 10:30 A.M. 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)

(Partha Sarthy, J)

Bibhash/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	19.11.2022
Transmission Date	

