

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9487 of 2022

Raj Kumar Mukhiya Son of Late Sito Mukhiya, resident of Village-Bithan,
Police Station-Bithan, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal, Department of Mining,
Government of Bihar, Patna.
2. The Mining Officer, District Mining Office, Samastipur.
3. The Mining Inspector, District Mining Office, Samastipur.
4. The Certificate Officer, Rosera, District-Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ranjit Kumar Yadav, Advocate
For the Respondent/s	:	Mr.Gyan Prakash Ojha, GA-7
For the Mines Department	:	Mr. Naresh Dikshit, Spl. P.P.
		Mr. Utsav Anand, AC to Spl. P.P.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-08-2022

The petitioner has prayed for the following relief/s :-

1. That this is an application for issuance of a writ in the
nature of Certiorari to quash memo no. 395 dated
13.07.2019 issued by the Respondent no.3; the notice
dated 01.02.2022 as well as notice dated 20.09.2019
issued by the Respondent no.3 under section 7 of the
Bihar & Orissa Public Demand Recovery Act and the
notice dated 30.05.2022 issued by the Respondent
no.3 in Certificate Case no. 44/2021-22 by which the
petitioner has been directed to show cause as to why
not the petitioner be sent to Civil Prison and further



for issuance of a writ in the nature of Mandamus
And/or any other appropriate writ, order or direction
commanding the Respondent no.2 to drop the
proceeding of Case no. 44/2021-22.

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 18th 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	
CAV DATE	
Uploading Date	06.08.2022
Transmission Date	

