

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12619 of 2019

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Ajit Sharma @ Ajit Kumar Sharma, son of Sri Shiva Sharan Sharma, Resident
of Village- Chaiful, P.S.- Manjhi, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The Director Agricultural Department Government of Bihar, Patna.
3. The Collector cum District Magistrate, Gopalganj.
4. The Sub- Divisional Certificate Officer, Gopalganj.
5. The Bihar State Food and Civil Supplies Corporation through the District Manager, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bipin Bihari Singh, Advocate
For the Respondent/s	:	Mr. S. Raza Ahmad, AAG-5
		Mr. Alok Ranjan, AC to AAG-5
		Mr. Shailendra Kumar Singh, Advocate
		Mr. Agreya Pratap, Advocate

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

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(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.)

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Date : 19-01-2022

Heard learned counsel for the parties.

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



- .. For the issuance of writ in nature of *certario* for quashing or set aside the proceeding of Certificate Case No. 08/2014-15 initiated by Sub-Divisional Certificate Officer, Gopalganj (respondent no. 3) whereby and where-under the said respondent authority in complete violation of law, without serving Notice prescribed U/s 7 and further without giving reasonable opportunity of hearing by way of filing show cause U/s 9 of the Bihar and Orissa Public Demands Recovery Act, 1914 issued warrant of arrest dated 09-07-2016 against the petitioner for enforcing the Certificate amount of Rs. 5441651/- (Fifty four lakh forty one thousand six hundred fifty one) mentioned in the so called certificate notice which is never served upon the petitioner till date.
- B.** For grant of stay or kept in abeyance to warrant of arrest dated 09-07-2016 issued by the Sub-Divisional Certificate Officer, Gopalganj in connection with Certificate Case No. 08/2014-15 whereby and where-under the respondent authority given direction to arrest of petitioner.
- C.** For direction to the Sub-Divisional Certificate Officer, Gopalganj to allow petitioner to exercise his statutory right given U/s 9 of the Bihar and Orissa Public Demands Recovery Act, 1914 for filing of show cause against the Certificate Case No. 08/2014-15, further prayer that proceeding of said certificate may remain stay till the disposal of this writ petition..
- D.** And for any other reliefs/reliefs for which the petitioner is found to be entitled under the provision of law involved in 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 **15th 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	20.01.2022
Transmission Date	

