

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15634 of 2021

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1. Raj Kumar Mishra S/o Late Satya Narayan Mishra, Proprietor of M/S Kamal Nayan Electronics, Hospital Road, Simri, R/o Vill-Keshopur, P.S.-Simri, Dist.-Buxar.
 2. Urmila Devi, W/o Kamlesh Prasad Bari, then she was Mukhiya of Gram Panchayat Kathar, R/o Vill Kathar, P.S.-Simri, Dist.-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept. of Rural Development, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Rural Development Dept. Govt. of Bihar, Old Secretariat, Patna.
3. The District Magistrate, Buxar.
4. The Additional Collector-cum-Certificate Officer, Buxar.
5. The Block Development Officer, Simri, Dist-Buxar.
6. S.H.O. Simri Police Station, Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate
For the Respondent/s : Mr.Lalit Kishore (AG)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(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 : 03-02-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s).

- (i) For quashing the Notice dated 28.07.2021 under section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 here in after referred to as the PDR Act issued by Certificate Officer-Cum-Addl.- Collector, Buxar in the name of petitioners informing that Rs.18,82,500/- amounts were due against Certificate Debtors viz. petitioners in the Certificate Case No.50/2013-14 on account of dues for purchasing solar lamps from a different agency other than agency earmarked by the Government of Bihar.
- (ii) For restraining the respondents from taking any coercive measure against the petitioner including lodging or taking further action or any coercive steps for recovery of the amounts mention in the notice dated 28 .07.21 issued under the signature of Certificate Officer-Cum-Additional Collector, Buxar as the action is wholly arbitrary and unwarranted.
- (iii) For the issuance of other appropriate writ/writs, direction/directions, order/orders as may be deem fit and proper.

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/petitioners intend 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 petitioners 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) Petitioners shall appear in the office of the appropriate authority on **24th 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 petitioners's petition expeditiously, by a reasoned and speaking order, preferably within a period of two months from the date of appearance of the petitioners before him and till

then no coercive steps be taken against the petitioners;

(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 petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioners take 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 petitioners 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

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	