

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15765 of 2021

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Raj Kishori Flour and Rice Mill Pvt. Ltd. having its Registered Office at Nehru Nagar near Pamp House, Buxar through its Director namely Rajeev Kumar, aged about 52 years, Male, Son of Tarkeshwar Prasad Srivastava, Resident of Nehru Nagar, Ward No. 20, near Pamp House, Police Station-Muffasil, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Industries, Govt. of Bihar, Patna.
2. The Director, Directorate Food Processing, Department of Industries, Govt. of Bihar, Patna.
3. The Joint Director, Directorate Food Processing, Department of Industries, Govt. of Bihar, Patna.
4. The Additional Collector-cum-Certificate Officer, Buxar.
5. The S.H.O., Town P.S., Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravi Nandan, Advocate
For the Respondent/s : Mr.Yogendra Prasad Singh (AAG-7)

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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 : 08-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

- “i) For issuance of a writ in the nature of certiorari or any other appropriate writ for quashing of the entire certificate case no. 09/2019-20 as the very initiation of the said proceeding is illegal and unsustainable in the eyes of law.
- ii) For issuance of a writ in the nature of certiorari or any other appropriate writ for quashing of the orders dated 07.03.2020 and 28.07.2021 wherein a proceeding for the attachment of the property of the petitioner has been initiated and a distress warrant (D/W) has been issued against the petitioner and accordingly, a direction has been given to the Officer-in-charge, Buxar Town P.S. for executing the same.
- iii) For a direction to the respondent authorities for granting the remaining amount to the petitioner as agreed in the MOA and enable him to run his rice mill smoothly in accordance with the Scheme.
- iv) For holding that the certificate proceeding under the provisions of Bihar & Orisa Public Demand Recovery Act, 1914 is not maintainable for the recovery of alleged loan/dues amount as the same would not come within the purview of either the certificate dues or the public demand.
- v) For issuance of any other writ, order and/or direction which you Lordships may deem fit in the facts and 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 **28th 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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	