

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11900 of 2022

=====

Ainala Anil Kumar Son of Late A. Gopal Resident of House No. Plot No. 19, Bharati Avenue, Rajdhani Co-op Housing Society, near Kalyani Theatre, Bowenpally, Secunderabad, Telangana, one of the Ex-Director of M/s. Vishwa Infrastructures and Services Private Limited, having its registered office at 1-11-256/C/24, Plot No. 24, Gagan Vihar Colony, Begumpet, Hyderabad, Telangana- 500016.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, District- Sheohar.
2. The District Magistrate, Sheohar, District- Sheohar.
3. The Certificate Officer, Sheohar, District- Sheohar.
4. The Additional Collector, Sheohar.
5. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
6. The Engineer-in-Chief, Public Health Engineering Department, Government of Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Shekhar, Advocate
Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-08-2022

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

- i) To issue a Writ in the nature of Certiorari for quashing
the Certificate Case No.16/2017-2018/48/2021/29/
2021-22 including the entire Certificate proceeding



having been initiated against the petitioner as same is in teeth of law laid down by Hon'ble Supreme Court and the provisions of Insolvency and Bankruptcy Code, 2016, rendering the same as wholly without jurisdiction.

- ii) To issue a Writ in the nature of Certiorari for quashing the Warrant of Arrest issued by the District Certificate Officer, Sheohar against the petitioner in Certificate Case No.16/2017-2018/48/2021/29/2021-22.
- iii) To any other relief or reliefs to which the petitioner is entitled 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 12th of September, 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)

(Satyavrat Verma, J)

Vikash/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	25.08.2022
Transmission Date	

