

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16686 of 2021

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Shri Rajiv Kumar Singh S/o Late Tara Prasad Singh residing at Shiv Bhawan Compound, Police Line Road, Jagdishpur, Bhagalpur, Bihar- 812001.

... .. Petitioner/s

Versus

1. The Bihar State Power Holding Company through its Chief Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. The Managing Director, South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
3. The Superintendent Engineer, Electric Supply Circle, Munger.
4. The Executive Engineer, Electric Supply Division, Munger.
5. The Assistant Engineer, Electric Supply Division, Munger.
6. The Chief Engineer, South Bihar Power Distribution Company Limited, Patna.
7. The Bihar State Power Transmission Company Ltd. through its Chairman-cum- Managing Director, Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanket, Advocate
		Mr. Vinay Mistry, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma, Advocate
		Mr. Akhileshwar Singh, Advocate

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

Date : 18-08-2022

Heard learned counsel for the parties.

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

“(i) To issue an appropriate writ(s), order(s), direction(s) in the nature of writ of Certiorari quashing the Certificate Case No. 01/13-14 which has wrongly been instituted and is being continued against the



Petitioner (the Chief Manager, Project of the Braithwaite Burn And Jessop Construction Limited) in his individual capacity under Bihar and Orissa Public Demand Recovery Act, 1914- by the Superintending Engineer, Electric Supply Circle, Munger and is pending before the Court of Certificate Officer, Munger inspite of the fact that the agreement was between the erstwhile Bihar State Electricity Board (now Bihar State Power Holding Company) and the Company being Braithwaite Burn And Jessop Construction Limited.

(ii) Issue an appropriate writ(s), order(s), direction(s) in the nature of writ of Mandamus directing the Respondent authorities and holding that no dues of the company can be realized from the Petitioner, in his individual capacity as Chief Manager, Project of the Braithwaite Burn And Jessop Construction Limited, and that the liability of the dues of the company is to be realized from the company or the assets of the company.

(iii) After quashing the certificate proceeding, it be directed that a fresh requisition be sent in the name of the Company Braithwaite Burn And Jessop Construction Limited.

(iv) Alternatively, to issue an appropriate writ(s), order(s), direction(s) in the nature of writ of Mandamus directing respondent authorities to expunge the name of the Petitioner from Certificate Case No. 01/13-14, pending before the Court of Certificate Officer, Munger and substitute the same with 'Braithwaite Burn And Jessop Construction Limited, a Government of India Enterprise and a Company incorporated under the



Companies Act, 1956 as amended by the Companies Act, 2013, having its registered office at 27, Rajendra Nath Mukherjee Road, Kolkata – 700001 through its authorized representative.

(v) To Any other relief or reliefs for which the petitioner is found to be entitled in the fact 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, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	22.08.2022
Transmission Date	

