

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14145 of 2019**

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Surendra Baitha S/o Sakaldip Baitha Vill.- Rampur Chaklall, P.O. and P.S.- Jandaha, Distt.- Vaishali, Former Mukhiya, Gram panchayat Raj- Rasalpur, Rulsul Sthan, Block- Samad, Distt.- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna
2. The Director Panchayati Raj Department, Govt. of Bihar, Patna
3. The District Panchayati Raj Officer Vaishali, Hajipur
4. The District Magistrate Vaishali, Hajipur
5. The Certificate Officer Vaishali, Hajipur
6. The Deputy Development Commissioner-cum-Chief Executive Officer District Board, Vaishali, Hajipur
7. The Block Development Officer Jandaha, Distt.- Vaishali, Hajipur

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                                                 |
|----------------------|---|-------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Pramod Mishra, Advocate<br>Mr. Vijay Kumar Mukul, Advocate<br>Mr. Jyoti Prabhakar, Advocate |
| For the Respondent/s | : | Mr. Ajay, GA-5                                                                                  |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 05-12-2022**

Heard learned counsel for the parties.

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

“That the petitioner above-named craves for indulgence of this Hon'ble Court by way of issuance of any appropriate writ/writs, setting wide/quashing the certificate case No.317-319/2014-15 initiated against this petitioner under Public Demand Recovery Act as well as



all or any consequential coercive steps like proceeding of attachment vide notice dated 29.01.2019 jointly with one Gaytri Devi, a former Mukhiya and Pramod Ram, the Panchayat Secretary for recovery of some amount alongwith 12% per annum interest on the ground that under a scheme of 12<sup>th</sup> finance year for solar lamps in which it has been stated that the petitioner alongwith the then Panchayat Secretary in her capacity of Mukhiya has purchased the said solar lamps on higher prices in the year 2007- 08 for which a liability of Rs.2,85,521/- (Two Lakh Eighty five thousand, five hundred and twenty one) alongwith amount of interest has arbitrarily and illegally fixed upon the petitioner without affording any opportunity of hearing whereas the petitioner has very much done the whole works of scheme as per rules by inviting quotations and only upon selections of Agency of repute by the Aam Sabha the solar lamps have been purchased and there has been no question of excess payment as all the payments were made through cheques and now after all most elapse of more than six years of completing the said scheme under some conspiracy such illegal demand of recovery from the petitioner is being raised. And/or for any other relief or reliefs for which petitioner is found entitled to, in the facts and circumstances this 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 **26.12.2022** 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)**

**( Partha Sarthy, J)**

Spd/-PKP

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