

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17254 of 2021

1. Magadh Sugar and Energy Ltd., Unit Bharat Sugar Mills having its local office at, P.O. and P.S. Sidhwalia, District Gopalganj through its Executive Vice President (Cane) namely Rakesh Kumar Singh, aged about 56 years, male, son of Sri Rameshwar Singh, resident of at and P.O. - Rampur, P.S. Motiganj, District Gonda, Uttar Pradesh- 271301.
2. Rakesh Kumar Singh (Executive Vice President (Cane) Son of Sri Rameshwar Singh Resident of at and P.O. - Rampur, P.S. Motiganj, District Gonda, Uttar Pradesh - 271301 and local Address at C/O Bharat Sugar Mills, P.O. and P.S. - Sidhwalia, District Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Sugarcane Industry Department, Government of Bihar, Patna.
2. The Principal Secretary, Sugarcane Industry Department, Government of Bihar, Patna.
3. The Cane Commissioner, Government of Bihar, Patna.
4. The Joint Cane Commissioner, Government of Bihar, Patna.
5. The Certificate Officer, Gopalganj in Certificate Case No. 07/2021.
6. The Cane Officer, Gopalganj, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashish Giri, Advocate
For the Respondent/s : Mr.Abbas Haider (S.C. 6)

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 through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 22-01-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s).

“i. To issue writ/order or direction in the nature of Ceriorari for quashing the entire Certificate Proceeding bearing Certificate Case No. 07/2021 including the requisition and the

Certificate issued therein under Section 4, 5 and 6 of the Bihar and Orissa Public Demand Recovery Act, 1914 and also under Section 7 Notice dated 26.01.2021.

ii. To hold and declare that the initiation of the Certificate Case No. 07/2021 is wholly without jurisdiction and not tenable in the eyes of law.

iii. To issue writ/order or direction in the nature of Certiorari for quashing the arrest warrant dated 21.08.2021 issued by the Certificate Officer in the present Certificate Case No. 07/2021 against the petitioner No. 2 i.e. Rakesh Kumar Singh.

iv. To pass interim/ad-interim relief staying warrant of arrest dated 21.08.2021 as issued against the petitioner No. 2 in Certificate Case No. 07/2021 and/or prevent the respondents from taking any coercive action against the petitioner and/or the further proceeding in the Certificate Case No. 07/2021 be stayed.

v. To any other relief or reliefs for which the petitioners are found to be 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/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 petitioners 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 **18th 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. Warrant

of arrest (Annexure-12) issued against petitioners shall remain stayed.

(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)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	