

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12679 of 2022

Prabhu Prasad Gupta Son of Shyam Bihari Gupta, resident of Rohua Khurd,
P.S. Durgawati, District Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Mines and Geology Department, Principal Secretary, Government of Bihar, Patna.
2. Principal Secretary, Mines and Geology Department, Government of Bihar, Patna.
3. District Certificate Officer-cum-Deputy Director, Mines and Geology Department, Patna Circle, Patna, District-Patna.
4. Assistant Mines Officer, Kaimur (Mohania), District Kaimur.
5. District Certificate Officer-cum-S.D.M., Mohania, District Kaimur.
6. Officer-in-Charge-Durgawati P.S.-Durgawati, District Kaimur (Bhabhua).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr.Gyan Prakash Ojha, GA-7

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(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 : 02-09-2022

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

- I. That the present writ application is being filed in the nature of *Certiorari* for quashing the Certificate Case No. 80 of 2014-15 dated 06.04.2015, certificate dated 06.04.2015, requisition dated 19.03.2015 (Annexure-P/1, P/1-A, P/1-B to the writ application); on the ground that the certificate case has been initiated without paying the court fee as evident



from the order sheet, requisition is initiated after three years, which is time barred as per the Bihar and Orissa Public Demand Recover Act, 1914(herein after referred as " P.D.R.Act, 1914"), the entire action is in breach, as the certificate is a decree, and Annexure-P/1-A, does not carry the correct name, father name and address of the petitioner, certificate case no. is wrongly stated in certificate;

- II. That the present writ application is being filed in the nature of *Certiorari* for quashing the certificate notice bearing Certificate Case No. 166 of 2017-18 arising out of certificate case no. 80 of 2014-15 (Annexure-P/2) dated 20.09.2017/05.10.2017 issued by the certificate officer-cum-S.D.M, Mohania; on the ground that the certificate does not carry the requisition, it does not carry the certificate, name, father's name and complete address is incorrect, thus, the entire action is without jurisdiction.
- III. That the present writ application is being filed in the nature of *Certiorari* for quashing the warrant issued against the petitioner by the certificate officer-cum-Deputy Director, Mines and Geology Department, Patna Division in Certificate Case no. 80 of 2014-15 dated 4.08.2015 by which warrant has been issued against the petitioner; on the ground that the entire action is in breach of the mandate of the law; there is final order passed under section-10 of the P.D.R.Act,1914;
- IV. That the present writ application is being filed in the nature of *Certiorari* for quashing the warrant issued against the petitioner by the certificate officer-cum-SDM, Mohania in case no. 166 of 2017-18 dated 08.07.2022 by which warrant has been issued against the petitioner; on the ground that the order-sheet, there is an observation made to issued warning notice, a warrant has been issued for arrest, the warrant issued without deciding the matter, the entire action is in breach of the mandate of the law;
- V. Further for any other relief/reliefs for which the petitioner is entitled for;



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 **19th 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)

(S. Kumar, J)

Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.09.2022
Transmission Date	

