

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12795 of 2022

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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- 500016 through its authorized representative namely Rachamalla Srikanth, (Male), aged about - 42 years, Son of R. Yadagiri, resident of House No. 6-6-269/88, Arun Jyothi Colony, Gandhi Nagar, Police Station- Gandhi Nagar, Secunderabad, Hyderabad, Telangana.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, District - Araria.
2. The District Magistrate, Araria, District - Araria.
3. The Certificate Officer, Araria, District - Araria.
4. The Additional Collector, Araria.
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

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Appearance :

For the Petitioner/s : Mr.Rajeev Shekhar, Advocate
For the Respondent/s : Mr.Arvind Ujjwal, Sc 4

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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

Heard learned counsel for the parties.

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



- i) To issue a Writ in the nature of Certiorari for quashing the Certificate Case No.1/2017-18 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 order as contained in Memo no.208 dated 21.01.2022 passed in Certificate Case No.1/2017-18 as the issues raised by the petitioner company qua initiation of Corporate Insolvency Resolution Process has not been looked into much less considered and also 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.
- iii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.

Learned counsel invites our attention to the impugned order, as contained in Memo No. 208 dated 21.01.2022 (Annexure-3, Page-47) passed by the Certificate Officer-Cum-D.R.D.A., Araria.



We notice that the jurisdictional issue and maintainability of the proceedings, under the Debt Recovery Act, though raised by the petitioner, was neither considered nor dealt with by the appropriate authority. The jurisdictional issue ought to have been decided in view of the objection application (Annexure-2, Page 28) filed under Section 9 of the Bihar & Orissa Public Demand Recovery Act (Hereinafter referred to as the 'Act').

We also notice that in similar situation, a co-ordinate Bench of this Court in CWJC No. 8040 of 2022, titled as **M/s Vishwa Infrastructures and Services Private Limited Vs. The State of Bihar & Ors.** (Annexure-8 Page 132), directed the petitioner herein to file a fresh objection under Section 9 of the Act.

Under these circumstances, we quash and set aside the impugned order, as contained in Memo No. 208 dated 21.01.2022 (Annexure-3, Page-47) passed by the Certificate Officer-Cum-D.R.D.A., Araria with the direction to the petitioner to appear before the authority on 19.09.2022 at 10:30 A.M., along with a copy of this order, on which date additional material in support of the application shall be filed, or else file a fresh petition under Section 9 of the Act, should the need so



arise.

The appropriate authority shall consider and dispose of the petitioner's petition expeditiously, by a reasoned and speaking order, preferably within a period of three months from the date of appearance of the petitioner before him and till then no coercive steps be taken against the petitioner.

The authority shall also examine as to whether the amount in question falls within the definition of public demand or not.

Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Order assigning reasons shall be supplied to the parties.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

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.

Liberty reserved to the petitioner to challenge the



order passed by the appropriate authority, before the appropriate forum, if so required and desired.

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	

