

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21181 of 2021

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Ghulam Hussain son of Late Tasdusk Hussain resident of Fatehpur Bepari
Tola, P.S.- Zero Mile, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Additional Secretary, Road Construction Department, Bihar, Patna.
4. The Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna.
5. The Executive Engineer, National Highway Division, Purnea.
6. The Additional Collector (Land Reforms) cum Certificate Officer, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prabhu Nath Pathak, Advocate
For the Respondent/s : Mr.Uday Shankar Saran Singh (GP19)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

(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.)

2 17-02-2022 Petitioner has prayed for following relief(s) : -

(I) For quashing the Demand Notice issued under Memo No.249 dated 01.08.2019 by the Certificate officer-cum-Additional Collector (Land aquisition), Purnea in Certificate Case No.525/18-19 for the demand of Rs.15.92 lakh against alleged loss in pursuant to discharge of his official duty as Junior Engineer during posting at N.H. Division, Purnea in execution of work at km



121 to 129 of N.H. 107 in pursuant to the letter no.4470 (S) dated 15.06.2018 issued by the Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna to the Executive Engineer, National Highway Division, Purnea.

(ii) For quashing the letter no.4470 (S) dated 15.06.2018 issued by the Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna whereby and whereunder the Executive Engineer, National Highway Division, Purnea has been directed to file (institute) the case under Section 4 of Bihar and Orissa Public Demand and Recovery Act for recovery of 15.92 lakh from the petitioner for alleged loss in execution of work at km 121 to 129 of N.H. 107 which is wholly illegal and without jurisdiction since the recovery for alleged loss in pursuant to discharging duties as Junior Engineer for supervision contractual work has not come under Schedule-1 of Bihar and Orissa Public Demand Recovery Act. However, the petitioner retired from service on 31.07.2018 as Junior Beginner and no departmental proceeding and criminal case was pending on or before retirement.

AND

For quashing the letter no.742 dated 30.07.2018 issued by the Executive Engineer, National Highway Division, Purnea whereby and whereunder, the Certificate Case bearing No.525/18-19 has been filed before Additional Collector (Land Acquisition) -cum-Certificate Officer, Purnea has been filed in pursuant to the direction given under letter no.4470 (S) dated 15.06.2018 issued by the Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna which is wholly and without jurisdiction since no advance or loan has been taken by the petitioner from the Govt. and what so the allegation for damaged due to supervision as Junior Engineer during service has not come under schedule 1 of Bihar and Orissa Public Demand Recovery Act 1914.”



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 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 2.3.2022 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)

(Vikash Jain, J)

K.C.Jha/chn

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