

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20531 of 2019

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Anil Kumar Son of Paras Narayan Prasad Resident of Village/Mohalla- Ward
No. 05, informant of Nandrani Niwas, Raghunathpur, Police Station- Motihari
Town, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Food and Consumer Protection Department, Bihar,
Patna.
3. The District Magistrate Saran at Chapra.
4. The Certificate Officer Saran at Chapra.
5. The District Manager B.S.F.C., Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ram Binod Singh, Advocate
For the Respondent/s : Mr.Arvind Ujjwal (SC 4)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2022

Petitioner has prayed for following relief (s) : -

“i) For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of the entire proceeding of certificate case no. 7 of 16-17 (new Case No. 2 of 17-18, pending in the court of the Certificate Officer, Saran at Chapra whereby the certificate proceeding has been initiated against the petitioner for recovery of Rs. 13,37,805.68/-.

ii) For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of the notice U/s 7 of Bihar and Orissa Act no. 4, 1914 dated 10.04.2018 issued under the signature of the Certificate Officer, Saran at Chapra whereby a demand of Rs. 13,37,805.68/- has been raised against the petitioner.

iii) For issuance of writ in the nature of certiorari or any other appropriate writ for quashing of order dated 28.05.2019 passed by the Additional



Collector-cum-Certificate Officer, Saran at Chapra in Certificate Case No. 7 of 2016-17 (New Case No. 2 of 2017-18) whereby despite providing evidence in support of receipt of 1000 quintal paddy by the miller and also recording the same in order the Certificate Officer has held that the Certificate debtor has not produced and concrete evidence regarding embezzled paddy.

iv) For issuance of writ in the nature of mandamus or any other appropriate writ for directing the respondent to pass a reasoned order on the objection filed by the petitioner U/S 9 of the Bihar & Orissa Public Demand Recovery Act, 1914 (hereinafter refer as "Act" only) as the petitioner has raised several objection including maintainability of the certificate case as well as demand.

v) For issuance of any other appropriate writ or direction which your Lordships may deem fit and proper 'in the facts and circumstances of the case.'

It is not in dispute that petition under Section 9/60 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 9/60 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 27.12.2022 at 10:30 A.M. 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 9/60 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)

sujit/chn

AFR/NAFR	
CAV DATE	
Uploading Date	16.12.2022
Transmission Date	

