

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19884 of 2019

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Avinash Kumar, Son of Sri Dukhan Sah, Resident of Mohallah- North S.K. Puri, Patna, P.S.- S.K. Puri, District- Patna at present posted as Block Statistical Supervisor, Ghanshyampur, Darbhanga, The then Block Statistical Supervisor, Marwan, Muzaffarpur (Bihar).

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food and Consumer Department, Government of Bihar, Patna.
2. The Bihar Food and Civil Supply Corporation, Sone Bhawan, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Manager, Bihar State Food and Civil Supply Corporation, Muzaffarpur.
5. The District Certificate Officer-cum-Sub Divisional Officer, West Muzaffarpur, District Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Advocate
For the Respondent/s	:	Mr. S. Raza Ahmad AAG-5
		Mr. Siddharth Harsh, Advocate
		Mr. Shadwal Harsh, Advocate

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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

Heard learned counsel for the parties.

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

“i.For issuance of writ in the nature of certiorari for quashing the Order dated 14.06.2018 issued Officer, West by the District Certificate Officer, West Muzaffarpur whereby and whereunder



the Notice dated 22.06.2018 has been issued to the Petitioner under Section 7 of the Bihar & Orissa Public Demand & Recovery Act, 1914 (hereinafter referred to as the "PDR Act") for recovery of Rs. 33,74,022.40 in connection with Certificate Case No. 364 of 2018-19 as well as whole of the Proceeding initiated in Certificate Case No. 364 of 2018-19 by the District Certificate Officer, West Muzaffarpur as the said proceeding is illegal and without jurisdiction because the amount sought to be recovered is not comes under the purview of Public Demand as prescribed under Sub Section (6) of Section 3 of the Bihar & Orissa Public Demand & Recovery Act, 1914.

ii. To hold and declare that whole of the proceeding initiated under the PDR Act is wholly illegal and without jurisdiction as neither valid Certificate, Requisition and Notices have been issued nor Agreement as per Clause 9 of Schedule-1 of the PDR Act has been made between the Petitioner and the Respondents.

iii. For issuance of any other appropriate writ, order 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 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 **10th January, 2023** 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)

(Partha Sarthy, J)

Spd/K.C.Jha

AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2022
Transmission Date	

