

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21548 of 2019

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M/s Basmati Mills, Saharsa, through its Proprietor Md. Sabbir Ahmad, aged about 46 (Male), Son of Late Md. Ilyas Resident of Village- Mir Tola, Ward No. 7, P.S.- Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
2. The District Magistrate, Saharsa
3. The District Certificate Officer, Saharsa
4. The Bihar State food and Civil Supplies Corporation Limited, through its Managing Director, Patna, Bihar
5. The Managing Director, Bihar State food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Rai Path, R-Block, road No. 2, Patna, Bihar
6. The District Manager, Bihar State food and Civil Supplies Corporation Limited, Distt.- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarjeet Prabhakar, Advocate Mr. Nityanand Mishra, Advocate Ms. Pratibha, Advocate Mr. Alok Abhinav, Advocate
For the State	:	Mr. Arbind Ujjwal, SC-4
For the BSFC	:	Mr. Shailendra Kumar Singh, 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

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

“i) For the issuance of a writ in the nature of writ of mandamus or any other appropriate writ or order or direction, commanding the respondent authorities not to proceed with the certificate case bearing no. 11 of 2014 -15 filed by the respondent corporation



for the recovery of an amount of Rs. 80,20,106.63/- along with interest in the light of the Award pronounced in an Arbitral Proceedings between the parties and in the light of the spirit of the orders passed by this Hon'ble Court in similar matters.

ii) For the issuance of a writ in the nature of writ of mandamus not to execute any warrant against the petitioner in view of the changed circumstances.

iii) For any other relief or equitable relief to which the Petitioner may be found entitled”

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 27.12.2022 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)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2022
Transmission Date	

