

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3358 of 2020

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Ajay Kumar Yadav, Son of Indradeo Prasad, Resident of Mission Compound (Mahadeva), Muhalla- Mahadeva, P.S. Siwan Mufassil (Mahadeva Police Out Post), District Siwan (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue Deptt. Govt. of Bihar, Patna.
2. The Collector, Siwan.
3. The Certificate Officer, Siwan.
4. The Superintendent of Police, Siwan.
5. The Officer-In-charge, Mahadeva O.P., P.S. Mahadeva Mufassil, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kamala Kant Tiwary, Advocate
For the Respondent/s : Mr.Sajid Salim Khan, SC-25

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-09-2022

Heard learned counsel for the parties.

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

- (i) To quash the order issued by the Superintendent of Police, Siwan in light of order passed by this Hon'ble Court in C.W.J.C. No. 1459 of 2018 demanding Rs. 2,76,734/- on 08.03.2019 (Annexure- 2) for providing Police Protection increasing arbitrarily to Rs. 3,80,614/-



(Annexure- 3) for the same police protection in its order dated 27.05.2019 arbitrarily, malafidely and without any notice to the petitioner on without informing the petitioner about the calculation of the amount either for Rs.

2,76,734/- demanded on 08.03.2019 or increased amount of Rs. 3,80,614/-.

(ii) Be further pleased to quash the order dated 27.09.2019 contained in Annexure- 4 passed by the Certificate Officer, Siwan in Certificate Case No. 01 of 2019-20 for initiating the certificate proceeding against the petitioner on the basis of complaint by the Superintendent of Police, Siwan for recovery of Rs. 3,80,614/- under the Bihar Public Demand Recovery Act which is illegal, arbitrarily and conflicting.

(iii) And be further pleased to quash the demand notice (Annexure- 5) demanding illegal and arbitrary amount of Rs. 3,80m614/- without a copy of certificate from the Certificate Holder to Certificate Debtor, the petitioner.



(iv) And be pleased to stay the operation of the order dated 27.09.2019 and the notice and also be pleased to restrain the Respondents from taking any coercive order against the petitioner including the warrant of arrest of the petitioner.

(v) And be pleased to grant any other relief or reliefs for which the petitioner is entitled to.

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 **11.10.2022** 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) The authority shall also examine all issues including question of fact and law;

(e) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing as also leading evidences has to be afforded to the parties;



(f) Order assigning reasons shall be supplied to the parties;

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

(h) 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;

(i) Liberty reserved to the petitioner to challenge the order passed by the appropriate authority, before the appropriate forum, if so required and desired.

(j) 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)

Ashwini/-

(S. Kumar, J)

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	29.09.2022
Transmission Date	NA

