

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17591 of 2022

Narsingh Construction through its partner, Bishwanath Singh Binay, Male, aged about 68 years, Son of Kanakir Singh resident of Ward No. 6, at Village- Pachgachhiya Police Station- Bihra, District- Saharsa, Bihar, India- 852124.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Cum- Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Joint Commissioner of State Taxes Saharsa Circle, Saharsa, Bihar.
3. The Assistant Commissioner of State Taxes, Saharsa Circle, Saharsa.
4. The District Certificate Officer, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Surendra Singh, Advocate
		Mr. Vivek Kumar Singh, Advocate
For the Respondent/s	:	Mr.Vivek Prasad (GP7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-01-2023

Petitioner has prayed for the following relief(s):

“(i) To issue an appropriate writ preferably in the nature of certiorari for setting aside the notice dated 03.11.2022 issued under the signature of District Certificate Officer, Saharsa in Certificate Case No. 06/2022-23 by which erroneous demand of Rs.80,03,990/- (Rupees Eighty Lacs three thousand Nine hundred Ninety) has been made from the petitioner.

(ii) To hold and declare that the certificate dated 03.11.2022 as well as the



requisition are not in consonance with the Form No. 1 and Form No. 3 since the relevant portions does not bear the amount and the period. The said Form no. 1 and 3 also does not bear the date of issuance of the certificate as such the entire certificate case no. 6/2022-23 is bad in law being in teeth of the provisions contained under the Bihar and Orisa Public Demand Recovery Act, 1914.

(iii) To grant any other relief (s) for which the petitioner may be found entitled 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 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 13.02.2023 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 9/60 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)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	31.01.2023
Transmission Date	

