

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18171 of 2022

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Srimati Shashi Mishra Wife of Ramesh Chandra Mishra Resident of Village-
Niranjanpur, P.O.-Sikariya, Karpurwa, P.S.-Darigaon, Block, Sasaram,
District-Rohtas at Sasaram, Pin Code-821115 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Excise and Registration Department, Government of Bihar, Patna.
2. The Excise Commissioner-Cum-Inspector General of Registration, Excise and Registration Department, Government of Bihar, Patna.
3. The Collector, Rohtas, District-Rohtas at Sasaram.
4. The District Panchayat Raj Officer-Cum-District Certificate Officer, Rohtas, District-Rohtas at Sasaram.
5. The Assistant Commissioner, Excise, Rohtas, District-Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate

For the Respondent/s : Mr. Vikash Kumar (SC 11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-01-2023

Petitioner has prayed for the following relief(s):

“(i) For issuance an appropriate writ /
order / direction for setting aside the Certificate Case
No.06 of 2016-17 issued by the District Certificate
Officer, Rohtas at Sasaram which has been initiated
against the Petitioner to deposit Rs.9,14,467/- within
30 days from 08.06.2022 whereas as per Para 14 of



the Utpad Prapatra- 127 for the Financial Year 2015-16 it is clearly stated that the if Settlee has to deposit the 1/12th of the Yearly Licence Fee through Bank Guarantee in the Treasury and on default of payment of Licence Fee the Licence will be deemed to be cancelled, on the basis of certificate and requisition which forms of Section 7 of the Notice which is contrary to the statutory Rules of Public Demand Recovery Act, 1914 (hereinafter referred as "the PDR Act") as it is blank, without any adjudication is evident from the certificate of the Notice and thus amount to defective Notice and defective initiation of the Certificate Case.

(ii) For further issuance of any appropriate writ / order / direction for setting aside the Certificate Case No. 06 of 2016-17 which has been initiated against the Petitioner under Section 7 of the PDR Act by which it is asked to pay amount when there is no any outstanding dues remaining which is in violation of the fundamental right of the petitioner.

(iii) To any other relief or reliefs for which the petitioner is entitled to.”

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 17.02.2023 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)

Saurabh/K.C.Jha

AFR/NAFR	
CAV DATE	
Uploading Date	01.02.2023
Transmission Date	

