

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.664 of 2023

Krishan Kumar Jha, Retired Panchayat Sachiv, Gram- Baikuntpur, S/o Nandu Jha, R/o Village- Nainaha, House No. 56, P.O. Panapur Langa, P.S. Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Bihar, Patna.
2. The Director Panchayati Raj Department, Bihar Patna.
3. The District Panchayati Raj Officer, Vaishali at Hajipur.
4. The District Magistrate cum Certificate Officer, Vaishali at Hajipur.
5. The Deputy Development Commissioner-cum-Chief Executive Officer, District Parishad, Vaishali at Hajipur.
6. The Block Development Officer-cum-Executive Officer, Panchayat Samiti, Prakhand Rajapakar, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ravish Mishra, Advocate Mr. Alok Ranjan, Advocate Ms. Keertika Sakshi, Advocate
For the Respondent/s	:	Mr. Kameshwar Pd. Gupta, GP-10 Mr. Satya Vrat, A.C. to G.P. 10 Mr. Kumar Sameer, Advocate
For Zila Parishad	:	Mr. Sheo Nandan Singh, Sr. Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-02-2023

Heard learned counsel for the parties.

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

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(i). For issuing appropriate writ(s)/ order(s)/ direction(s) in the nature of Certiorari to quash and set-aside the Notice dated 30.09.2014, issued by the Certificate Officer, Vaishali, in Certificate Case No. 203/14-15, under 7 section of the Bihar and



Orissa Public Demands Recovery act, 1914, wherein and whereunder without defining and assigning specific obligations and responsibilities for defalcation and embezzlement, a certificate proceeding has been initiated and a demand for Rs. 50,536.09/- has jointly been raised both on the petitioner and the then Mukhiya namely – Jaiprakash Rai, for simultaneous payment.

(ii). For seeking explanation from the respondents as to the reasons that have prevented them from constituting a Three Men Committee, as enshrined under the rules and also prevalent, so as to inquire into the episode of defalcation and embezzlement, before arriving at the final figure.

(iii). For instructing the respondents for explaining the reasons as to why only on the basis of a letter dated 30.09.14, bearing No. 2314, issued by The Deputy Development Commissioner – cum – Chief Executive Officer (Respondent No. 5), the contents of which are not known nor has been explained to the petitioner, the authorities have assumed and presumed that the petitioner in connivance with the then Mukhiya has defalcated the amount in relation to the Solar Light Scheme.

(iv). For further instructing the respondents to outline the reasons as to why the petitioner was never ever noticed during the course of so called inquiry conducted by them nor any hearing was given to him and without following the principles of natural justice unilateral and illegal action has been taken against him.

(v). For checking the arbitrary and illegal exercise of colorable power by the respondents in as much as, for a defalcation and embezzlement pertaining to year 2005-2006 to 2011-2012, coercive actions have been taken by them in the year 2014, and that that too after the retirement of the petitioner from his job.

(vi). For any other relief/reliefs to which the petitioner is found to be entitled in the facts and circumstances of this case.

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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 filed/ to be filed by the petitioner under Section 9/60 of the Act positively within a period of three 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 16th of February, 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 three 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, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	03.02.2023
Transmission Date	

