

(2022) 12 PAT CK 0005

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 16552 Of 2022

Mohan Prasad VsState Of Bihar

Date of Decision : 02-12-2022

Acts Referred:

Bihar & Orissa Public Demands Recovery Act, 1914 — Section 9

Citation : (2022) 12 PAT CK 0005

Hon'ble Judges : Sanjay Karol, CJ;Partha Sarthy, J

Bench : Division Bench

Advocate : Pravin Kumar, Gyan Prakash Ojha, Naresh Dikshit

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

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

"1(i) To issue a writ, writs/ order, orders/ direction, directions to the respondents authorities no. 4 to not taken step against the petitioner, for auction and his arresting because of the petitioner has never operated a Briquette kiln.

(ii) To direct the respondent authorities to make enquiry regarding to operated a Briquette kiln by the petitioner in which year.

Meanwhile petitioner has never operated a Briquette kiln and department never issue a licence in favour of the petitioner for operation of the Briquette kiln.

(iii) To direct the respondent authorities to verify his official record, when the petitioner apply for the Briquette kiln in which year.

Then how the respondent authorities starting proceeding against the petitioner.

(iv) To ask explanation cum-show cause to the respondent authorities without issuing licence for operation of Briquette kiln in favour of the petitioner, How starting a certificate case no. as 68/Khanan/2021.

(v) To stay the operation of the notice dated 8.8.2022 issued under the signature

of the respondent no.4.”

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 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 19th of December, 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 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.