

**(2022) 10 PAT CK 0028**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 6386 Of 2019

Ashutosh Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

**Date of Decision:** Oct. 17, 2022

**Acts Referred:**

- Bihar & Orissa Public Demands Recovery Act, 1914 - Section 7, 9

**Hon'ble Judges:** Sanjay Karol, CJ; S. Kumar, J

**Bench:** Division Bench

**Advocate:** Bipin Bihari Singh, Shyame Kant Singh, Shivendra Kumar Roy, Jitendra Kumar Roy

**Final Decision:** Disposed Of

### **Judgement**

Heard learned counsel for the parties.

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

â€œA. For the issuance of writ in nature of certario for quashing or set aside the proceeding of Certificate Case No. 360/2018-19 initiated by

Certificate Officer, Purnea (respondent no. 2) whereby and where-under the said respondent authority in complete violation of law, without serving

Notice prescribed U/s 7 and further without giving reasonable opportunity of hearing by way of filling show cause U/s 9 of the Bihar and Orissa

Public Demands Recovery Act, 1914 issued warrant of arrest dated 05-02-2019 against the petitioner for enforcing the Certificate amount of Rs.

372127/- mentioned in the so called certificate notice which is never served upon the petitioner till date.

B. For grant of stay or kept in abeyance to warrant of arrest dated 05-02-2019 issued by the Certificate Officer, Purnea in connection with Certificate

Case No. 360/2018-19 whereby and where-under the respondent authority given direction to the S.H.O of the K. Hat P.S to make arrest of petitioner.

C. For direction to the Certificate Officer, Purnea to allow petitioner to exercise his statutory right given U/s 9 of the Bihar and Orissa Public

Demands Recovery Act, 1914 for filing of show cause against the Certificate Case No. 360/2018-19.

D. And for any other reliefs/reliefs for which the petitioner is found to be entitled under the provision of law involved in the present case.â€

It is not in dispute that petition under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as â€œthe Actâ€)

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 4th of November, 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 petitionerâ€™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.