

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9122 of 2015

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Unmesh Prasad, son of Late Kanchan Sah, Resident of Village- Chattiya Chintamanpur, Police Station- Govindganj (Malahi), District- East Champaran. Proprietor of M/s Navin Rice Mill at Chattiya Chintamanpur, Police Station- Govindganj (MALahi), District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Bihar State Food Corporation, Patna, Bihar.
2. The District Magistrate, East Champaran at Motihari.
3. The Certificate Office, East Champaran at Motihari.
4. The District Manager, Bihar State Food Corporation, East Champaran at Motihari.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjay Kumar No.-7, Advocate
For the State : Mr. Sanjay Pandey, GP 21
Mr. Nishant Kumar Jha, AC to GP 21
For the BSFC: Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 06-07-2015

Heard learned counsel for the petitioner, the State and the respondent-Bihar State Food Corporation.

The petitioner seeks direction to the respondent-Bihar State Food Corporation(hereinafter to be referred to as “BSFC”) to accept the amount mentioned in the order dated 09.12.2014 passed in Certificate Case No. 20/Khadyan/2014-15 and further for stay of the distress warrant issued against the petitioner.

It appears that in the certificate case an objection has been filed by the petitioner admitting the dues of Rs. 10,20,000.00



whereas the requisition is for Rs. 92,73,182.60. The Certificate Officer directed the petitioner to deposit the admitted amount in four instalments and obtain a certificate from the respondent-BSFC reflecting such payment but the aforesaid amount was not deposited by him. The Certificate Officer has already directed the respondent-BSFC to file rejoinder to the objection filed by the petitioner so that a final decision under section 10 of the Bihar and Orissa Public Demands Recovery Act, 1914(hereinafter to be referred to as “the Act”) is taken. The petitioner did not deposit the aforesaid amount and has filed a petition for extension of the date for deposit of such amount upon which no order has been passed, whereas distress warrant has been issued against him.

Learned counsel for the respondent-BSFC submits that the Certificate Officer should be directed to finally decide the objection filed by the petitioner under section 9 of the Act.

Accordingly, this writ application is being disposed of with a direction to the Certificate Officer to take immediate step for taking a decision under section 10 of the Act upon the objection filed by the petitioner. The respondent-BSFC is directed to immediately file rejoinder to the objection filed by the petitioner preferably within two weeks and, thereafter, the matter should be disposed of within four weeks by the Certificate Officer.

In view of the fact that the distress warrant has been issued against the petitioner without finally disposing of the objection filed by him under section 9 of the Act, the same is quashed.

However, the Certificate Officer would be at liberty to proceed in the matter in accordance with law after taking a decision under section 10 of the Act. It is also made clear that this order would not come in the way of the petitioner in depositing the admitted amount to the respondent-BSFC which shall accept the same if it is tendered.

(Dr. Ravi Ranjan, J)

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