

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9585 of 2015

=====

Vijay Shankar Prasad Son of Late Jaimangal Prasad resident of
village - Bhelwa Circle, P.S. - Ghorasahan, District - East
Champaran, Proprietor of M/s Durga Rice Mill, Motihari, East
Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary,
Department of Food and Civil Supplies, New Secretariat, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies
Corporations Limited, Patna.
3. The District Manager, State Food Corporations Limited, East
Champaran.
4. The District Magistrate, East Champaran at Motihari.
5. The Certificate Officer, East Champaran at Motihari.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Yogesh Chandra Verma, Sr. Advocate
For the State : Mr. Rikesh Sinha, AC to SC VIII
For the BSFC : Mr. Shailendra Kumar Singh, Advocate

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 07-07-2015

I have heard learned counsel for the petitioner, the State and the respondent BSFC.

A short issue has been raised in this writ application by the petitioner. It is contended that the petitioner's objection filed under Section 9 of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as 'the Act') has been disposed of vide order dated 23.2.2015, as contained in Annexure 4, without assigning any reason and without recording any finding as to why the grounds raised by the petitioner are not tenable.

Mr. Yogesh Chandra Verma, learned Senior Counsel appearing for the petitioner submits that the certificate debtor has right to file objection under Section 9 of the Act denying the liability and if such objection is filed then the Certificate Officer is required under Section 10 of the Act to hear and determine such objection. It is contended that, without hearing and determining whether the certificate debtor is liable to pay whole or part of the certificate amount, he cannot proceed further.

He further submits that it is well settled that if any action of the statutory authority is going to visit civil consequence upon a party or a person to a proceeding then a reasoned order

would be required to pass upon the objection filed by the party otherwise the order would be suffer from the vice of arbitrariness.

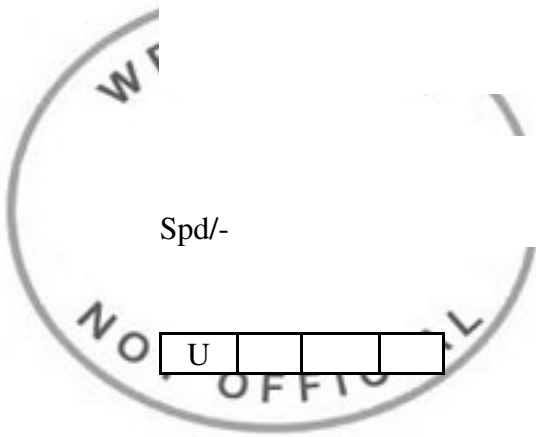
I find force in the submission raised on behalf of the petitioner. The order impugned does not disclose any finding upon the grounds raised by the petitioner in his objection filed under Section 9 of the Act as it has simply been recorded that such objection petition is rejected.

In my considered opinion, that would not be sufficient and, thus, this order cannot be sustained in its present form. As a result, this writ application succeeds and the order impugned dated 23.2.2015, as contained in Annexure 4, is quashed and set aside.

Let the Certificate Officer consider the grounds raised by the petitioner in objection filed under Section 9 of the Act on its own merit and pass a reasoned order in accordance with law within a period of four weeks from the date of receipt / production of a copy of this order.

Till then let no coercive step be taken for the recovery of the certificate amount from the petitioner. However, after passing of a reasoned order as per the direction contained herein, the Certificate Officer would be at liberty to proceed in

accordance with law.



(Dr. Ravi Ranjan, J)

Spd/-

U			
---	--	--	--