

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12838 of 2015

M/s Arya Nandani Rice Mill, through its Proprietor Arvind Kumar, S/o Madan Prasad, Resident of Village- Srirampur, P.S Raxaul, District East Champaran, Motihari,.

.... Petitioner

Versus

1. The State of Bihar through, the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Collector, District East Champaran.
3. The Sub-Divisional Officer, District East Champaran.
4. Bihar State Foods and Civil Supplies Corporation Limited, Through its Managing Director, Patna, Bihar.
5. The District Manager, Bihar State Foods and Civil Supplies Corporation Ltd., East Champaran.
6. The District Certificate Officer, East Champaran, Motihari.

.... Respondents

Appearance :

For the Petitioner : Mr. Krishna Mohan Mishra, Advocate
For the State : Ms. Divya Verma, AC to AAG3
For the BSFC : Mr. Shailendra Kumar Singh,
Mr. A.N. Rai, Advocates

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-09-2015

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

2. The present writ petition has been filed for quashing the order dated 18/23.02.2015 as well as whole of the proceeding initiated under Bihar and Orissa Public Demands Recovery Act (for short, "the Act") by Certificate Officer, Motihari, East Champaran in Certificate Case No. 28/Khadyan/2014-15 as the proceeding has been initiated without recording satisfaction and

following procedure laid down under Sections 5, 6 and 7 of the Act and order has been passed without considering the objection petition filed by the petitioner.

3. The limited issued raised on behalf of the petitioner is with regard to the manner of rejection of his petition under Section 9 of the PDR Act. The same has been rejected without assigning a single reason whatsoever for not accepting the case of the petitioner, which does not meet the requirement of Section 10 of the Act.

4. The immediate concern of the petitioner is that the warrant of arrest has been issued against the proprietor of the petitioner-Rice Mill in connection with the dues shown in the notice under Section 7 of the Act at Rs. 57,67,968.06 without however passing a valid order disposing of his objection petition under Section 9 of the Act as aforesaid.

5. Learned counsel for the respondent-Corporation, on the other hand, submits that the impugned order has validly been passed after hearing the parties and having regard to various judicial decisions as observed therein by the Certificate Officer.

6. A perusal of the impugned order dated 18/23.02.2015 passed by the Certificate Officer discloses that the objection petition under Section 9 of the Act has been rejected without assigning proper reasons for not accepting the contention of the petitioner. Moreover, a

vague statement has been made by the Certificate Officer that various judicial decisions have been taken into consideration but however without single citation being referred. As such, the impugned order cannot be validated as being not in accordance with the requirements of Section 10 of the Act.

7. Accordingly and with the consent of the parties, the order dated 18/23.02.2015 passed by the Certificate Officer in Certificate Case No. 28/Khadyan/2014-15 is hereby set aside with a direction to pass orders afresh in accordance with law giving reasons while disposing of the petition under Section 9 of the Act. The writ petition, accordingly stands allowed.

8. It is made clear that until such disposal of the petition, the Certificate Officer, East Champaran, Motihari shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 28/Khadyan/2014-15.

(Vikash Jain, J)

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