

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15896 of 2015

=====

Mahendra Prasad, S/o Sri Jaimangal Prasad Yadav, Prop., Vikash Rice Mill,
Resident of Village - Lakshamnana, P.O. - Saunaha, P.S. - Palanwan
(Raxaul), District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Food and Consumer Protection Department, State 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 Food and Civil Supply Corporation Ltd., Motihari, East Champaran.
6. The Certificate Officer, East Champaran, Motihari.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Krishna Mohan Mishra
For the Respondent-State : Mr. Harish Kumar, GP-32
For the Respondent-BSFC : Mr. Shailendra Kr. Singh

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 12-10-2015 Heard Mr. Krishna Mohan Mishra, learned counsel

appearing on behalf of the petitioner, learned counsel for the

State and Mr. Shailendra Kumar Singh, learned counsel

appearing for the Bihar State Food and Civil Supplies

Corporation.

The petitioner is aggrieved by the order dated
4.6.2015 passed by the District Certificate Officer, East
Champaran at Motihari in Certificate Case No.33 of 2014-15
whereby warrant have issued against non-deposit without
disposal of the objection filed under section 9 of the Bihar and
Orissa Public Demands Recovery Act, 1914 (hereinafter referred

to as 'the Act').



A very limited issue has been raised by Mr. Mishra, learned counsel appearing for the petitioner to question the order impugned dated 4.6.2015 passed by the District Certificate Officer, East Champaran at Motihari whereby warrant has been issued. He submits that the order is non-speaking and does not reflect application of mind. The arguments stand confirmed from the order whereby the District Certificate Officer in a sweeping manner has simply issued warrant even when the objection filed under section 9 of 'the Act' remains pending as is manifest from the order passed on 25.8.2014. The order is non-speaking and does not reflect any application of mind. The District Certificate Officer while on adjudication on a certificate performs a quasi judicial function under section 10 of 'the Act' and his decision thereon thus should reflect an application of mind on the rival contentions. In the present case he has utterly failed to do so for there is no adjudication.

For the reasons aforementioned the impugned order dated 4.6.2015 passed in Certificate Case No.33 of 2014-15 cannot be upheld and is set aside. The matter is remitted back to the District Certificate Officer, East Champaran at Motihari for passing a fresh order in accordance with law and after hearing the parties.

The petitioner would appear before the District Certificate Officer, East Champaran along with a copy of this order on or before 2.11.2015 and whereafter he shall proceed in the manner indicated hereinabove.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--