

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3012 of 2015

Prabhat Kumar Karn Son of Birendra Nath Karn, Ex- Chairman of Betauna panchayat PACS Ltd Rice Mill, P.O. Benipatti, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. Chief Secretary, Government of Bihar, Patna
3. District Magistrate , Madhubani.
4. Managing Director, Bihar State Food and Civil Supply Corporation, Sone Bhawan, Birchand Patel Path, Patna.
5. District Manager, Bihar State Food and Civil Supply Corporation Madhubani.
6. District Certificate Officer Madhubani.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
For the State : Mr. Anisul Haque, AC to AAG 9
For BSFC : M/s Shailendra Kumar Singh and
Awadhesh Kumar, Advocates

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 13-03-2015

I have heard learned counsel for the petitioner, the State and the B.S.F.C.

Petitioner seeks quashing of the entire proceeding in Certificate Case No. 12/2014-15.

Initially, as it appears from the records of this case, the petitioner has raised an issue that the notice sent to him under Section 7 of the Bihar & Orissa Public Demands Recovery Act, 1914, (hereinafter referred to as 'the Act') is not in accordance with law and in Form 1 and which should have been there in view of the

requisition having been made in terms of Section 5 of the Act.

On the aforesaid issue having been raised, this Court vide order dated 2.3.2015 directed the respondent State to produce the entire record of the aforesaid certificate case.

The records have been produced before this Court that are the ordersheet and the requisition for the certificate under Section 5 of the Act. However, surprisingly the certificate and notice under Section 7 of the Act are not on record. Though from the ordersheet it appears that the notices have been issued and the copy of the certificate and notice has also been received by the petitioner, however, it appears that without a certificate even having been prepared such notice has been issued and even copy of that notice is also not on record.

It is mandatory that a copy of certificate must accompany the notice under Section 7 of the Act but the same not having been prepared, there would be no difficulty in holding that the proceedings are not in accordance with law.

Though it appears that the petitioner has appeared and filed his objection under Section 9 of the Act but in view of the fact that the aforesaid lacunae gives a fatal blow to the proceeding concerned itself, the same cannot be allowed to continue.

As a result this writ application succeeds and the

concerned notice contained in Annexures 6 and 7 are quashed and set aside.

However, the Certificate Officer concerned would be at liberty to proceed afresh in the matter in accordance with law.

(Dr. Ravi Ranjan, J)

Spd/-

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