

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12093 of 2015

Sanjay Kumar, son of Dinesh Singh, Proprietor of M/s. Maa Vaishnavi Rice Mill,
r/o. village Atrauli, P.S.Obra, Dist. Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Dist. Aurangabad.
2. The Bihar State Food & Civil Supplies Corporation Ltd., through its M.D. Bihar, Patna.
3. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Aurangabad, Dist. Aurangabad.
4. The District Certificate Officer, Bhojpur at Aurangabad, Dist. Aurangabad.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the BSFC : Mr. Shailendra Kumar Singh, Adv
For the Respondent/s : Mr. N. HODA KHAN, SC18

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-08-2015

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

2. This writ petition has been filed for quashing the entire certificate proceeding initiated against the petitioner in Certificate Case No. 62 of 2014-15 and for connected reliefs.

3. It is submitted on behalf of the petitioner that the notice under Section 7 issued in Form No.3 of Schedule II of the Bihar & Orissa Public Demands Recovery Act (For short, "the Act") does not meet with the statutory requirements having not been signed by the Certificate Officer rather it is issued under the signature of the Requisitioning Officer which renders the same invalid.

4. Learned counsel for the respondents, on the other hand, submits that despite valid service of notice issued under Section 7 of the Act, the

petitioner did not raise any objection before the Certificate Officer in that regard and also did not prefer any petition under Section 9 of the Act denying his liability. It is further submitted that the petitioner has since even deposited an amount of Rs.3,00,000/- and has expressed his readiness to deposit the remaining amount and in that view of the matter, this Court ought not to grant relief to the petitioner at this stage.

5. This court finds considerable force in the submissions of learned counsel for the petitioner. The notice issued under Section 7 of the Act does not satisfy the statutory requirements having not been issued under the signature of the Certificate Officer and it is, accordingly, held to be invalid and is quashed as such. The submission of learned counsel for the Respondents cannot be accepted as that would amount to conferring jurisdiction upon the Certificate Officer in a situation when the very assumption of jurisdiction was *void ab initio*. The matter is remitted to the Certificate Officer, Aurangabad for issuance of a fresh notice under Section 7 of the Act and proceed in the matter in accordance with law.

6. The writ petition stands allowed.

(Vikash Jain, J)

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