

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15722 of 2015

=====

Hare Krishna Chaubey S/o Late Shiv Shankar Chaubey, Proprietor Maa Durga Mini Rice Mill, Karsar Nawanagar, Resident of Village Revatia, P.S. Nawanagar, District Buxar.

.... Petitioner

Versus

1. The State of Bihar through D.M. Buxar.
2. District Certificate Officer, Buxar.
3. District Manager, Bihar State Food & Civil Supply Corporation Ltd., Buxar.

.... Respondents

=====

Appearance :

For the Petitioner	:	Mr. Ashwini Kumar Rai, Advocate
		Mr. Naresh Chandra Verma, Advocate
For the BSFC	:	Mr. Shilendra Kumar Singh, Advocate
For the State	:	Mr. Sanjay Pandey, GP 21
		Mr. Nishant Kr. Jha, AC to GP 21

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-12-2015

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

2. The present writ petition has been filed for quashing the entire Certificate proceedings in Certificate Case No. 11 of 2014-15 pending before the District Certificate Officer, Buxar and for connected reliefs.

3. The immediate concern of petitioner in this case is that a warrant of arrest has been issued against him in connection with the dues amounting to Rs. 83.61.454.54 recoverable in terms of the notice dated 30.07.2014 issued by the District Certificate Officer, Buxar in Certificate Case No. 11 of 2014-15.



4. It is submitted on behalf of the petitioner that the entire certificate proceeding is unsustainable in law, based as it is on the certificate dated 30.07.2014 wherein the amount stated to be justly recoverable from the certificate debtor has been left blank and thus the Certificate Officer cannot be said to have recorded his satisfaction appropriately for the purpose of recovery. Such certificate is in turn founded upon a requisition purportedly issued under Section 5 of the Bihar and Orissa Public Demands Recovery Act (for short, "the Act") which similarly does not contain the proper satisfaction and verification as the same contains blanks, apart from there being a discrepancy in the date of verification given as 30.07.2014 and the date of signature of the District Manager given as 26.07.

5. A perusal of the requisition bears out that the same does indeed suffer from the infirmities pointed out on behalf of the petitioner. The satisfaction required to be recorded by the requisitioning officer contains blanks at two places leading to inference of non-application of mind and such satisfaction therefore cannot be held to fulfill the requirements of the Act. The requisition for a certificate is contemplated to be issued in the statutorily prescribed Form No. 2 and the verification required therein must be held to be an essential ingredient while testing the validity of the requisition. The discrepancy in the dates mentioned on the requisition as pointed out by the petitioner is also manifest. In the circumstances, therefore, this Court has no hesitation in holding that the requisition as issued falls short of the prescribed requirements, rendering the same invalid.

6. As regards the effect of a defective certificate on the validity of the certificate proceeding, a Division Bench of this Court in

Nageshwar Prasad Singh Vs. Rai Bahadur Kashinath Singh (1958 BLJR 820) has observed as follows :-

"The Certificate-Officer must meticulously apply his mind to filing the certificate and filling in the columns and blanks correctly and in appending his certificate in the form prescribed, and that the filling in of the forms is a matter of substance and is imperative, to give the certificate the force of a decree of court of law, and if it is found that the Certificate-Officer had not applied his mind at all and that some of the blank spaces were not filled up, or were incorrectly filled up, the document so prepared and filed is not a certificate under the Public Demands Recovery Act. The certificate proceedings are wholly invalid and the officer concerned acts without jurisdiction".

7. In the above facts and circumstances and with the consent of the parties, the present writ petition is disposed of by setting aside the requisition, certificate and consequently the entire certificate proceeding, granting liberty to the Respondent No. 3 to issue a fresh requisition, if so advised, in accordance with law.

8. It is made clear that until a fresh certificate is filed, the District Certificate Officer, Buxar shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 11 of 2014-15.

9. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran

U			
---	--	--	--