

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11025 of 2015

Om Prakash Prasad Son of Late Devalal Prasad, resident of village - Shankar Saraiya, P.S. Turkauliya, District - East Champaran, Proprietor of M/s Om Rice Mills, Turkaulia, East Champaran

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, New Secretariat, Patna
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna
3. The District Manager, State Food Corporation Limited, East Champaran
4. The District Magistrate, East Champaran at Motihari
5. The Certificate officer, East Champaran at Motihari

.... Respondents

Appearance :

For the Petitioner : Mr. Anuj Kumar, Advocate
For the Respondents : Mr. Raju Giri- GP30
For the BSFC : Mr. R.S. Pradhan, Sr. Advocate
Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-08-2015

The present writ petition has been filed for quashing the order dated 02.03.2015 by which the Certificate Officer, East Champaran at Motihari has rejected the objection petition filed under section 9 of the Bihar & Orissa Public Demands Recovery Act (For short, "the Act") and issued distress warrant against the petitioner on 30.05.2015 for recovery of Rs.38,89,395.64 in Certificate Case No.31 of 2014-15 .

2. Learned counsel for the petitioner submits that even though an objection petition under Section 9 of the Act was filed, the same has been rejected without due application of mind and without

assigning any reasons. He submits that coercive action by way of attachment and distress warrant has been taken by the authorities.

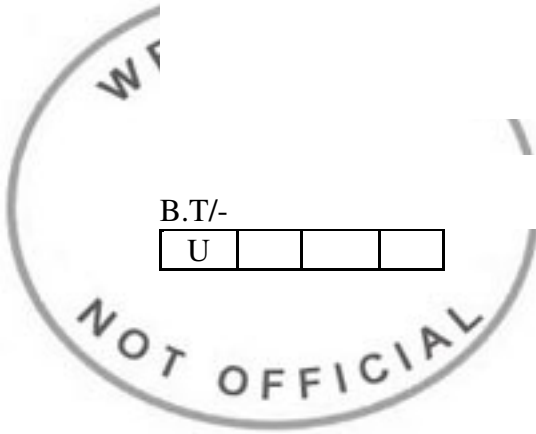
3. Learned counsel for the respondents opposes the writ petition submitting that it will be evident from the impugned order dated 02.03.2015 itself that the same has been passed with due application of mind as the petitioner's objection petition has been rejected after hearing the parties and having regard to the judicial decisions relied upon by the petitioner.

4. A perusal of the impugned order on the face of it cannot be held as being a speaking order as no reason whatsoever has been assigned even in brief to indicate why the objection petition under Section 9 of the Act was not acceptable.

5. It is well settled that any adverse order must be informed with reason in order to avoid the risk of being branded as arbitrary. An order of rejection without reasons is by definition cryptic and defeats the very purpose of the objection petition statutorily provided under Section 9 of the Act thus resulting in denial of a remedy to the petitioner at the initial level.

6. In the above circumstances, the writ petition is allowed and the impugned order dated 02.03.2015 passed in Certificate Case No.31 of 2014-15 is hereby set aside with a direction to the Certificate Officer, East Champaran at Motihari to pass orders afresh and dispose

of the petitioner’s objection petition under Section 9 of the Act in
accordance with law.



(Vikash Jain, J)