

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.972 of 2015

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M/s Maa Durga Mini Rice Mill. Situated at Barahra Tola, P.S.-
Bihiya, District - Bhojpur through its Proprietor Sri Rajendra Prasad,
S/o Sri Jawahar Prasad.

.... Petitioner

Versus

1. That State of Bihar through District Magistrate Bhojpur, Ara.
2. The District Certificate Officer, District - Bhojpur at Ara.
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 987 of 2015

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M/s Mahavir Mini Rice Mill situated at Village - Bharasra, P.S. -
Jagdishpur, District - Bhojpur through its Proprietor Sri Madhusudan
Dubey S/o Sri Niwas Dubey

.... Petitioner

Versus

1. The State of Bihar.
2. The District Certificate Officer, District - Bhojpur at Ara.
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 988 of 2015

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M/s Hare Ram Hare Krishna Mini Rice Mill situated at Village -
Khadra Tola, P.S. - Jagdishpur, District - Bhojpur through its Proprietor
Hare Krishna Singh S/o Late Taliknath Singh

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Bhojpur, Ara.
2. The District Certificate Officer, District - Bhojpur at Ara.
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 990 of 2015

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M/s Laxmijee Mini Rice Mill situated at Judge Bazar, P.S. - Bihiya,
District - Bhojpur through its Proprietor Smt. Renu Devi W/o Sri Lallan
Prasad

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Bhojpur, Ara.
2. The District Certificate Officer, District - Bhojpur at Ara.
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 998 of 2015

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M/s Jai Maa Laxmi Jee Mini Rice Mill, situated at Village -
Narainagarh , P.S.-Piro, District- Bhojpur, through its Proprietor Sri
Vakil Chaudhary, S/o Late Sugandh Chaudhary

.... Petitioner

Versus

1. The State of Bihar.
2. The District Certificate Officer, District - Bhojpur at Ara
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondent

with

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Civil Writ Jurisdiction Case No. 1306 of 2015

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M/s Hanumanjee Rice Mill situated at Bahadur Tola, P.S. Piro, District
Bhojpur through its Proprietor Sri Mahendra Singh S/o Late Bhola
Prasad Singh

.... Petitioner

Versus

1. The State of Bihar through District Magistrate Bhojpur, Ara
2. The District Certificate officer, District Bhojpur at Ara
3. The District Manager, State Food Corporation Bhojpur at Ara

.... Respondents

with

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Civil Writ Jurisdiction Case No. 1442 of 2015

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M/s Krishna Rice Mill situated at Village- Ugna, P.S- Jagdishpur,
District- Bhojpur through its proprietor Sri Bansropan Kesri, S/o Late
Bhagelu Sah.

.... Petitioner

Versus

1. The State of Bihar
2. The District Certificate Officer, District- Bhojpur at Ara.
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondent

with

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Civil Writ Jurisdiction Case No. 2089 of 2015

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M/s Gangajee Rice Mill situated at Bahadurpur Tola, P.S.- Piro,
District- Bhojpur through its Proprietor Sri Bishundeo Rai, S/o Late
Bhutti Rai.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Bhojpur, Ara.
2. The District Certificate Officer, District- Bhojpur at Ara
3. The District Manager, State Food Corporation Bhojpur at Ara.

.... Respondents

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Appearance :

(In CWJC No. 972 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate
Mr. Binod Kumar, Advocate

For the Respondent : Shivendra Kishore, Advocate

For the Corporation : Mr. A.N. Rai, Advocate

(In CWJC No. 987 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate

For the Respondent/s : Mr. Awadhesh Kumar, Advocate

For the State : Mr. Kuber Pathak, A.C. to S.C. 14

(In CWJC No. 988 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate

For the Respondent/s : Mr. Awadhesh Kumar, Advocate

For the State : Mr. Kumar Pankaj, A.C. to S.C. 21

(In CWJC No. 990 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate
Mr. Binod Kumar, Advocate
For the Corporation : Mr. Shailendra Kumar Singh, Advocate

(In CWJC No. 998 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate
For the Respondent/s : Mr. Awadhesh Kumar, Advocate

(In CWJC No. 1306 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate
Mr. Binod Kumar, Advocate
For the Corporation : Mr. Shailendra Kumar Singh, Advocate

(In CWJC No. 1442 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate
For the Respondent/s : Mr. Awadhesh Kumar, Advocate

(In CWJC No. 2089 of 2015)

For the Petitioner/s : Mr. N. K. Malhotra, Sr. Advocate
Mr. Binod Kumar, Advocate

For the Corporation : Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-02-2015

I have heard the parties and perused the records of the cases.

Identical issues being involved in all the matters they have been considered together and are being disposed of by a common order.

The writ petitioners seek quashing of undated certificate notices issued upon them in Case No. 48/14-15 under challenge is in C.W.J.C. No. 972/2015, Case No. 62/14-15 in C.W.J.C. No. 987/2015, Case No. 63/14-15 in C.W.J.C. No. 988/2015, Case No. 60/14-15 in C.W.J.C. No. 990/2015, Case No. 38/14-15 in C.W.J.C.

No. 998/2015, Case No. 25/14-15 in C.W.J.C. No. 1306/2015, Case No. 51/14-15 in C.W.J.C. No. 1442/2015 and Case No. 33/14-15 in C.W.J.C. No.2089 /2015 under Section 7 of the Bihar & Orissa Public Demands Recovery Act, 1914, (hereinafter referred to as 'the Act'). Such notices have been appended as Annexure 1 in all the writ petitions.

On the earlier occasion, when learned counsel had raised the issue that the proceeding suffers from several vices, for example the notice under Section 7 of the Act is undated and a copy of certificate has not been appended along with the same and, thus, the entire proceedings are in the teeth of law laid down by a Division Bench of this Court in **Murari Singh vs. The State of Bihar [1978 BBCJ 477]**, the State Food and Civil Supplies Corporation was granted opportunity for filing counter affidavit. Counter affidavit has been filed and it appears from it that during the pendency of the writ applications fresh notices have been issued to the petitioners which have been brought on record appended with supplementary counter affidavit and a copy of certificate also has been brought on record. A rejoinder has also been filed on behalf of the petitioners.

Learned counsel appearing for the petitioners draws attention of this court towards Annexure 7 which is a notice issued under Section 7 of the Act. He submits that the earlier notice was

undated and now this notice appears to have been signed on 7.2.2015 when the date of notice has been described as 7.3.2015 on the left hand side. He also submits that some of the petitioners have received the notice but some have not received. On that, it is contended on behalf of the respondents that there is remark of the process server that the petitioners have refused to accept the notices. Thereafter, the same have been sent through registered cover.

However, learned counsel for the petitioners submit that the certificates itself suffers from lacunae which is fatal. He points out that the certificate as contained in Annexure 7 appears to have been signed by the District Manager, State Food and Civil Supplies Corporation, Bhojpur who is not a Certificate Officer under the Act. Thus, certificate signed by him cannot be treated as valid certificate under the Act.

Learned counsel appearing for the State Food and Civil Supplies Corporation has no answer to the aforesaid point. He is not in a position to deny the aforesaid submission as none of the persons have signed at the place where the seal of Certificate Officer has been fixed.

In the aforementioned background of the facts and circumstances one would reach to irresistible conclusion that neither the notices nor the certificates, which have been brought on

record, are in accordance with law duly signed by the competent authority, thus, all of them have to be quashed and set aside.

It is admitted position that notices issued on earlier occasion under Section 7 did not carry with it the copies of the certificates. The aforesaid defect has been tried to be rectified by issuance of fresh notice with a copy of fresh certificate during the pendency of these cases but unfortunately they also suffer from the several defects that are fatal as has been held above.

Therefore, in view of non compliance of the provisions of Section 7 of the Act and the certificates itself being defective, all such notices and certificates are quashed and set aside. All the writ petitions, accordingly, stand allowed.

However, the matter is remitted back to the Certificate Officer, Bhojpur at Ara to dispose of the certificate cases afresh in accordance with law.

Before parting with the matter, I must indicate that this is intriguing as to why the defects are being repeated again and again by the concerned authorities.

(Dr. Ravi Ranjan, J)

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