

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1484 of 2015

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M/s Param Dayal Rice Mill, Rajgir Road, Silow, through its proprietor Subodh Kumar, son of Late Shyam Narayan Prasad, resident of Besuwai, P.S.- Chhabilapur, Distt.- Nalanda.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principle Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Managing Director, Bihar State Food & Civil Supply Corporation, Sone Bhawan, Patna, Bihar.
4. The Deputy Chief (Claim), the Bihar State Food & Civil Supply Corporation, Sone Bhawan, Patna, Bihar.
5. The District Magistrate, Nalanda.
6. The District Manager, B.S.F.C., Nalanda.
7. The Certificate Officer, Nalanda.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. D. N. Tiwari, Advocate
For the B.S.F.C.	:	Mr. Shailendra Kumar Singh, Advocate
For the State	:	Mr. Raju Giri, G.P. 30
		Ms. Aditi Hansaria, A.C. to G.P.30

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-03-2015

Heard learned counsel for the petitioner and the State.

The writ petition has been filed *inter alia* for grant of following reliefs:-

“1. (i) For quashing the notice issued vide Letter No.1560 dt.26.04.2014 issued by the District Manager, BSFC, Nalanda by which a demand of Rs.23002859 and 84 paise has been made to deposit in favour of Bihar State Food Corporation for remaining quantity of CMR rice to the tune of 10622 Q 13 kg. @ Rs.2165.56/ quintal.

(ii) For quashing the warrant dt. 14.10.14 issued by the Certificate Officer, Nalanda by which the petitioner has been directed to deposit Rs.2,41,53,032=84 paise in Certificate Case No.01/2014-15 pending before the learned Certificate Officer,

Nalanda

(iii) For issuance of writ of mandamus for direction to the respondents to pay the milling charges of the paddy which was done by the petitioner in pursuant of agreement with District Manager, BSFC, Nalanda

(iv) For issuance of writ of mandamus commanding respondents to pay the transportation cost which was paid by the petitioner for carrying the paddy / CMR rice.

(v) For direction to the respondents to restrain from any proceeding including a proceeding under Public Demand Recovery Act and/or Certificate Case and/or taking any coercive action taking against the petitioner in terms of warrant no.69 dated 14.10.2014.

(vi) For other relief / reliefs which may be granted to the petitioner in the facts and circumstances of the case.”

It was urged on behalf of the petitioner that warrant of arrest has been issued upon the petitioner without service of notice along with a copy of certificate under Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to be as “the Act”).

On such averment having been made, the respondent no.6 has filed counter affidavit appending a document showing service of notice upon the son of the petitioner along with a copy of the certificate. However, learned counsel for the petitioner does not have any instruction on that in view of the fact that copy has been served today itself.

Be that as it may, in the facts and circumstances of the case, since now notice is on record along with a copy of the certificate also, petitioner is directed to file his objection under Section 9 of the Act within a period of four weeks from today along with a copy of this order. In such case, the certificate officer

concerned would be obliged to consider his objection and take a decision in accordance with law under Section 10 of the Act. The execution of warrant is stayed till a decision is taken by the Certificate Officer as aforesaid if an objection is filed within four weeks. However, if his objection is rejected by the certificate officer, then he would proceed in the matter in accordance with law. It is made clear that if the petitioner chooses not to appear and file objection then stay of warrant would automatically stand vacated after four weeks and certificate officer concerned would be at liberty to proceed in the matter in accordance with law.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

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