

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1382 of 2015

=====

Sita Ram Bhagat Proprietor of M/s Sita Ram Rice Mill, Bishanpur (Saharsa), S/o late Gahdul Bhagat, Resident of Village Aran Bishanpur, P.S. Saharsa, Dist. Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Sone Bhawan, Veerchand Patel Path, Patna.
3. The Collector, Saharsa.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Saharsa.
5. The District Supply Officer, Saharsa.
6. The District Certificate Officer, Saharsa.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Adv.
 For the State : Mr. Tej Pratap Singh, AC to GP-17
 For the Corp. : Mr. A.N. Rai, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 27-01-2015

Heard learned counsel for the parties as with regard to
 the following prayer made in this writ application:-

"1. That this is an application for issuance of an appropriate writ for setting aside the notice dated 19.8.2014 issued by the respondent District Certificate Officer, Saharsa to the petitioner in a certificate proceeding i.e. Case No. 17/2014-15 u/s 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 as contained in Annexure-2 for recovery of Rs. 1,98,40,254/- with 18% of its interest."

Though by making pleadings in this writ application by way of production of an agreement dated 10.1.2011, it has been sought to be projected that such certificate case will not be



maintainable because of absence of any written undertaking/agreement between the petitioner and Bihar State Food and Civil Supplies Corporation Ltd. to recover the amount by way of certificate dues and thus, the law laid down by this Court in the case of *Sone Valley Rice Mill through its Proprietor Sudhakar Singh Vs. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna & Ors.* reported in *2014(3)PLJR 819* would be fully applicable for quashing the entire certificate proceeding. Learned counsel for the Corporation having invited attention to the copy of the certificate has submitted that the dues sought to be recovered by the petitioner seems to be pursuant to an another agreement of the year 2012-13 in which there was a clear provision for recovery of such amount by way of certificate proceeding. He, therefore, submits that the case in hand will be fully covered by the judgment of this Court dated 22.7.2014 in the case of *M/s Shiv Industries Vs. The State of Bihar & Ors.*

In the considered opinion of this Court, when the petitioner has been under knowledge of initiation of the certificate proceeding and there is an issue as to whether certificate proceeding can be maintainable in absence of clause in agreement, the better recourse to the petitioner would be to appear before the Certificate Officer and file his objection in terms of Section 9 of the Act and raise all these issues.



The Certificate Officer, however, on filing of such objection, will give opportunity to the Requisitioning Authority of the Corporation to file his reply and if after perusal of such reply and looking into the agreement for the period in question i.e. 2012-13 it is discovered that there was a clause of recovery of such amount from the petitioner by way of taking recourse to certificate proceeding, he will reject the objection and thereafter proceed to take steps for realization of the amount. If, on the other hand, it is found that alike the agreement of the year 2011-12, there was a similar agreement containing provision for recovery of the amount by way of certificate proceeding, they shall follow the law laid down by this Court in the case of Sone Valley Rice Mill (supra).

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--