

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6248 of 2015

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Birendra Singh Yadav S/o Kanhaiya Yadav R/o village + P.O.
Bahaniyawan, P.S. Jagdispur, Dist. Bhojpur.

.... Petitioner

Versus

1. The State of Bihar through the D.M. Bhojpur.
2. The Bihar State Food and Civil Supplies Corporation Ltd. through its M.D. Bihar at Patna.
3. The District Manager Bihar State Food and Civil Supplies Corporation Ltd. Bhojpur, Ara.
4. The Food Corporation of India, Division Manager, Ara.
5. The District Certificate Officer, Bhojpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Manoj Kumar

For the BSFC : Mr. Shailendra Kumar Singh

For the Respondents : Mr. Madhukar Mishra, AC to Sc31

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 28-07-2015

Heard both sides.

The demand raised by the Certificate Officer against the petitioner has been questioned by the petitioner in the present proceeding contending that the agreement reached by and between the petitioner and the respondent -Bihar State Food and Civil Supplies Corporation (for short 'the Corporation') does not stipulate the same. In substance, the jurisdiction of the Certificate Officer to initiate the PDR proceeding and issue notice/demand under Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914, (for short 'the Act') has been challenged on that count. The petitioner relies on a judgment of this Court.

Mr. Shailendra Kumar Singh, learned counsel for the

respondent Corporation submits that a writ appeal being LPA No. 1576 of 2014 has been filed thereagainst which is pending consideration. However, he has not disputed the contention of the petitioner that the agreement between the parties for the year in question 2011-12 did not contain a clause enabling the respondent Corporation to realize the dues by resorting to the provision and the procedure prescribed under the Act.

In view of the aforesaid, this Court has no hesitation in quashing the impugned notice issued by the respondent Certificate Officer (Annexure-1) in Certificate Case No. 57 of 2014-15. However, the order present shall not preclude the respondents from taking steps as required under the law after disposal of writ appeal (LPA No. 1576 of 2014) filed by the respondent-Corporation.

The writ application stands disposed of.

(Kishore Kumar Mandal, J)

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