

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9760 of 2015

=====

Vishwajeet Kumar, son of Vinay Singh, proprietor of M/s Vaste Suryanarayan Mini Rice Mill resident of village- Kanchanpur, P.S- Narari Kala Khurd, District- Aurangabad.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, District- Aurangabad.
2. The Bihar State Food and Civil Supplies Corporation Limited through its M.D., Bihar at Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Aurangabad, District- Aurangabad.
4. The District Certificate Officer, Bhojpur at Aurangabad, District- Aurangabad.

.... Respondent

=====

Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the BSFC : Mr. Shailendra Kumar Singh, Advocate
For the Respondent/s : Mr. Ashok Kumar, SC 11

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-08-2015

Heard learned counsel for the petitioner, learned Assistant Counsel to Standing Counsel-11 and learned counsel for the respondent-Corporation.

2. This writ petition has been filed for quashing the entire certificate proceeding initiated against the petitioner in Certificate Case No. 68 of 2014-15 and connected reliefs.

3. It is submitted on behalf of the petitioner that the notice under Section 7 issued in Form No.3 of Schedule II of the Bihar & Orissa Public Demands Recovery Act (For short, "the Act") does not meet with the statutory requirements having not been signed

by the Certificate Officer rather it is issued under the signature of the Requisitioning Officer which renders the same invalid.

4. Learned counsel for the respondents, on the other hand, submits that despite valid service of notice issued under Section 7 of the Act, the petitioner did not raise any objection before the Certificate Officer in that regard and also did not prefer any petition under Section 9 of the Act denying his liability.

5. This court finds considerable force in the submissions of learned counsel for the petitioner. The notice issued under Section 7 of the Act does not appear to have met with statutory requirements having not been issued under the signature of the Certificate Officer and it is, accordingly, held to be invalid and is quashed as such. The matter is remitted to the Certificate Officer, Aurangabad for issuance of a fresh notice under Section 7 of the Act and proceed in the matter in accordance with law.

6. The writ petition stands allowed *pro tanto*.

(Vikash Jain, J)

Chandran

U			
---	--	--	--