

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7142 of 2015**

Unmesh Singh, proprietor of Shyam Mini Rice Mill, Kasab, son of late Ram Naresh Singh, resident of village Kasab, P.S. Udwanthnagar, District Bhojpur,

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, New Secretariat, Patna,
2. The Bihar Food and Civil Supplies Corporation Limited, Patna,
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna,
4. The District Manager, State Food Corporation Limited, Patna,
5. The Managing Director, Food Corporation of India, Exhibition Road, Patna,
6. The District Magistrate, Bhojpur at Arrah,
7. The District Certificate Officer-cum-Senior Deputy Collector, Bhojpur at Ara,

.... Respondents

**Appearance :**

For the Petitioner : Mr. Mukul Prasad, Advocate

For the State : Mr. K.K. Sharma, AC to SC 22

For BSFC(respondent Nos. 2 to 4): Mr. R.S. Pradhan, Sr. Advocate

For FCI: Mr. Shashidhar Jha, Advocate

**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 06-05-2015**

I have heard learned counsel for the petitioner, the State, the Bihar State Food and Civil Supplies Corporation and the Food Corporation of India.

A short issue is being raised on behalf of the petitioner.

It is submitted that Certificate Case No. 08 of 2014-15 has been initiated against the petitioner at the instance of respondent nos. 2 to 4. Petitioner claims that it had appeared and filed his objection under section 9 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter to be referred to as



“the Act”), however, without considering the objection and taking a decision under section 10 of the Act, the Certificate Officer has issued distress warrant against the petitioner on 13.04.2015. The petitioner has appended the copies of the entire ordersheet as contained in Annexure 8. It appears from the ordersheet that on 09.07.2014 a notice under section 7 of the Act was issued to the petitioner. On 05.02.2015 the petitioner appeared and the matter was directed to be put up on 23.03.2015. On 23.03.2015, as stated in the ordersheet, the petitioner had filed his objection under section 9 of the Act and the BSFC was directed to respond to that. Though there is cutting and over-writing in the date but it appears that the matter was directed to be put up on 13.04.2015. It further appears from the order dated 13.04.2015 that the response of BSFC to the objection was filed and, thereafter, without passing any order upon that, the Certificate Officer issued distress warrant.

In my view, such order cannot be sustained in law as in case objection has been filed under section 9 of the Act by the certificate debtor denying his liability then the Certificate Officer was required to hear the matter and take a decision in accordance with law.

However, in the case in hand, the same having not been

done the order dated 13.04.2015 cannot be sustained and is set aside.

The Certificate Officer concerned is directed to consider the objection raised by the petitioner on its own merit and in accordance with law and pass a reasoned order, thereafter, he would be required to proceed in accordance with the decision taken in the matter.

Accordingly, this writ application is allowed in terms of the observations made, findings recorded and direction given as above.

**(Dr. Ravi Ranjan, J)**

SC/-

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