

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13324 of 2015

Sushma Gupta wife of Santosh Kumar Proprietor of M/s Swastik Rice Mill,
resident of village Obra, P.S. Obra, 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.

.... Respondents

Appearance :

For the Petitioner : Mr. Sumeet Kumar Singh, Advocate

For the Respondents: Mr. Sadanand Paswan- GP29

For the BSFC : Mr. R.S. Pradhan, Sr. Advocate

Mr. Jainandra Kumar

Mr. Shailendra Kumar Singh, Advocates

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-08-2015

Heard learned counsel for the petitioner, learned
Assistant Counsel to Government Pleader No.29 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.55 of 2014-15 and for 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)

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