

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17764 of 2015

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Ajay Kumar Gupta, Son of Shri Vindhyachal Prasad, Proprietor, Maa Vindhyachal Shiv Shakti Rice Mill, resident of Ward No. 17, Gandhi Nagar, P.O. & P.S. Bagaha, District West Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat Patna.
2. The Bihar State Food & Civil Corporation Limited, Sone Bhawan, 5th Floor, Birchand Patel Marg, Patna Through its Managing Director.
3. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., Sone Bhawan, Birchand Patel Marg, Patna.
4. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, West Champaran, Bettiah.
5. The District Certificate Officer, West Champaran, Bettiah.

.... Respondents

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Appearance :

For the Petitioner : Mr. Suraj Samdarshi, Advocate
For the State : Mr. Santosh Kumar Jha, GP 3
For the B.S.F.C. : Mr. Shailendra Kr. Singh,
Mr. Awadhesh Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-11-2015

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar State Food & Civil Supplies Corporation Limited.

2. The present writ petition has been filed for quashing the order dated 03.10.2015 passed by the respondent no. 5 in Certificate Case No. 38 of 2013-14, whereby and whereunder the Certificate Officer without considering the objection filed by the petitioner under section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as the 'Act') has passed an order purportedly

under Section 10 of the Act, and for connected reliefs.

3. It is submitted on behalf of the petitioner that a detailed objection under Section 9 of the Act was filed before the Certificate Officer. Various pleas were raised such as non-supply of statement of accounts, dispute with regard to the cost of the rice and the rate of interest, rate of rice recoverable at Rs. 2165.56 per quintal, various quantities of C.M.R. deposited by the petitioner not having been taken into account etc. It is, therefore, submitted that in absence of a clear determination of the amount finally recoverable from the petitioner, the certificate proceeding cannot go forward. The various specific objections of the petitioner have not been addressed, much less decided, in the impugned order dated 03.10.2015 which therefore does not fulfill the requirements contemplated under Section 10 of the Act.

4. Learned counsel for the respondents, on the other hand, supports the impugned order of the Certificate Officer and submits that the petitioner has failed to avail the forum of arbitration. Furthermore, the impugned order is amenable to statutory appeal.

5. Having heard learned counsel for the parties and on a careful consideration of the materials available on record, this Court is of the view that the impugned order of the Certificate Officer has been passed without considering the various objections raised by the petitioner. The break-up of the quantities of rice as well as rate of

supply which have gone into the calculation of the recoverable amount, have not been supplied to the petitioner, as there is nothing in the order to show that the statement of account in that regard was made available to the petitioner. The mere fact that the petitioner might have made some payment cannot detract from the legal position that the break-up and details of the certificate amount must be made available to the petitioner before effecting recovery.

6. In the above view of the matter and in the interest of justice, therefore, the impugned order dated 03.10.2015 passed by the District Certificate Officer, West Champaran, Bettiah in Certificate case No. 38 of 2013-14 is hereby set aside with a direction that a fresh speaking order be passed under Section 10 of the Act after considering the various specific objections raised by the petitioner in his objection petition filed under Section 9 of the Act. The petitioner shall appear before the Certificate Officer within two weeks from today and cooperate in the disposal of the objection petition, which should be made within a period of eight weeks from the date of receipt/production of a copy of this judgment. The writ petition, accordingly, stands allowed.

(Vikash Jain, J)

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