

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7931 of 2016

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1. Anjani Kumar Sinha Son of late Shiv Kumar Prasad Resident of Village - Masaurhi, PO -Masaurhi, PS Masaurhi, District Patna Proprietor M/S Sinha Rice Mill, Masaurhi, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar , through the Principal Secretary, Food and Consumer Protection Department , State of Bihar, Patna.
2. The District Collector, District Patna.
3. The Sub-Divisional Officer, Masaurhi, District Patna.
4. The Bihar State Food and Civil Supplies Corporation Limited, through its Managing Director, Patna Bihar.
5. The District Manager, Bihar State Food and Civil Supply Corporation Ltd, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Adv.
For the Respondent/s : Mr. Binod Ji Verma- GP17

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 13-05-2016

The petitioner is aggrieved by the letter bearing No.344 dated 16.2.2016 of the Sub Divisional Officer, Masaurhi, Patna who is stated to be discharging the duties of the District Certificate Officer.

I have heard Mr. Sudama Singh, learned counsel for the petitioner, Mr. Tej Pratap Singh A.C. to G.P.17 for the State and Mr. Shailendra Kumar Singh, learned counsel for the Corporation.

Although the petitioner has questioned the entire proceedings arising from Certificate Case No. 2 of 2013-14 but in view of the earlier order passed by this Court in C.W.J.C.No.13600 of 2014 present at Annexure-6, I am not persuaded to interfere with the

certificate proceedings on merits at the present stage.



Appreciating the position Mr. Singh appearing for the petitioner submits that the grievance of the petitioner is that even when the objection of the petitioner is pending consideration in the certificate proceedings and is yet to be disposed of that the Sub Divisional Officer has proceeded to issue the directions in his official capacity to issue the demand vide letter dated 16.2.2016 impugned at Annexure 12. He further submits that the letter itself manifests that the petitioner has deposited Rs. 1,33,00,000/- out of the certificate amount of Rs. 2,11,00,183/- and only Rs. 78,00,183/- remains pending for payment. He further submits that the petitioner is prepared to make repayment of the entire certificate amount provided he is permitted to deposit the same in reasonable instalments subject to the final determination of the liability since according to the petitioner there are certain payments which are due to be received from the Corporation itself.

In my opinion, considering that the certificate proceedings itself is pending for final disposal, hence even if the Sub Divisional Officer, Masaurhi happens to be the Certificate Officer, he cannot issue a demand in his official capacity as done vide Annexure-12. The exercise of jurisdiction by the Sub Divisional Officer as a District Certificate Officer under the provisions of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as 'the Act') is a

quasi judicial exercise and thus the demand raised by way of a certificate has to be dealt strictly in accordance with ‘the Act’. Thus even if the Sub Divisional Officer, Masaurhi is vested with powers of the District Certificate Officer, the demand raised by him vide letter dated 16.2.2016 in his official capacity is apparently in excess of jurisdiction and is unsustainable and is accordingly set aside. The petitioner as per his submission made before this Court would renew his offer of repayment of the certificate amount finally determined, in instalments and which shall be considered and disposed of by the District Certificate Officer in accordance with law after opportunity of hearing to the parties and by a reasoned order.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.05.2016
Transmission Date	