

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7652 of 2016

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1. Rajiv Kumar Thakur Son of Shri Radhey Thakur, Proprietor of M/s Anjali Rice Mill, resident of Village- Fatehpur, P.S.- Sultanganj, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Government of Bihar, Patna.
2. Bihar State Food and Civil Supplies Corporation Ltd., through its Manager, P.S. and District- Bhagalpur.
3. The Manager, Bihar State Food and Civil Supplies Corporation Ltd., P.S. and Distt- Bhagalpur.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., P.S. and District- Bhagalpur.
5. The District Supply Officer, Bhagalpur.
6. District Co-operative Officer, Bhagalpur.
7. The District Collector, Bhagalpur.
8. The Certificate Officer, Bhagalpur, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.B.P.Pandey, Sr. Adv.
Mr. Pravin Kumar Sinha, Adv.

For the Respondent/s : Mr. Santosh Kr.Jha, G.P.3

For the F.C.I. : Mr. Shailedra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-06-2016

Heard Mr. B.P. Pandey learned Senior Counsel for the petitioner, learned counsel for the State and Mr. Shailendra Kumar Singh for the Corporation.

Mr. Pandey learned Senior Counsel for the petitioner while questioning the validity of the Certificate Case No.1 of 2013-14 pending for consideration before the District Certificate Officer, has fairly submitted that the objection filed by the petitioner under Section 9 of the Bihar and Orissa Public Demand Recovery Act, 1914

(hereinafter referred to as 'the Act') remains pending. A copy of such objection has also been placed on record vide Annexure-8 to the writ petition. Mr. Pandey, submits that even when the certificate case remains pending, the District Certificate Officer has issued warrant as manifest from the order dated 5.1.2016.

In my opinion, the District Certificate Officer has acted contrary to the statutory prescriptions underlying the Act in issuing the warrant of arrest against the petitioner even when the matter remains pending for final disposal as mandated under Section 10 of 'the Act'.

In the circumstances discussed, the order dated 5.01.2016 issuing warrant cannot be upheld and is accordingly set aside. The petitioner shall appear before the District Certificate Officer on 11.7.2016 at 11 A.M. when the District Certificate Officer shall proceed to dispose of the matter in accordance with law, in consideration of the objection raised by the petitioner under Section 9 of 'the Act' and in observance of the procedure mandated under Section 10 of 'the Act' by providing an opportunity of hearing to the contesting parties and also after allowing them to lead evidence in support of their respective prayer. The petitioner shall be at liberty to raise all issues of facts and law in reference to the objection petition filed under Section 9 of 'the Act' present at Annexure-8 of the writ

petition. Should the petitioner failed to register his appearance on 11.7.2016 as directed, this order shall stand recalled and the writ petition would be dismissed.

The writ petition is disposed of with the directions/stipulations mentioned above.

Bibhash/-

(Jyoti Saran, J)

AFR/NAFR	
CAV DATE	
Uploading Date	2-07-2016
Transmission Date	