

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8866 of 2016

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Pramod Kumar, son of Late Dhanushdhari Pandey, Resident of Village- Pandey
Gangaut, P.S. Rupou, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Nawada.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation,
Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation District
Nawada.
5. The Certificate Officer, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar
For the Respondent-State : Dr.Anil Kr.Upadhyaya, SC-20
For the Respondent-BSFC : Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-07-2016

Heard the parties.

The petitioner questions the proceedings in a Certificate Case No.03 of 2014-15 initiated under the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as 'the Act') for recovery of price of custom milled rice (hereinafter referred to as the 'CMR') stated to be pending with the petitioner who is stated to be the proprietor of M/s Panchshil Rice Mill, Mansagar, Kawakol situated in the district of Nawada.

Facts of the case briefly stated is that the petitioner earlier came before this Court questioning the proceeding in question in CWJC No.9402 of 2014 and when under the orders of this Court he was required to deposit 50% of the demand and subject to deposit of the same, coercive actions were stayed and the writ petition was admitted for



hearing. In the meantime, the validity of a similar certificate proceeding came to be questioned in a batch of cases arising from CWJC No.9133 of 2014 (M/s Shivam Mini Modern Rice Mill vs. The State of Bihar) and analogous cases and a Bench of this Court vide judgment and order passed on 22.7.2014 in consideration of the issue raised by the rice miller relying upon clause 15 of the agreement which provides for resolution of disputes by way of Arbitration, disposed of the writ petition in following terms:

“12. Mr. Pradhan has, in fact, assured that if the petitioner would file his representation against the demand notice, the same shall also be disposed of expeditiously so that if the petitioner becomes aggrieved on account of refusal of settlement of dispute by the Corporation, he can take recourse to arbitration proceedings. He has also assured that till disposal of the representation, no further coercive action will be taken against the petitioner beyond what has already been taken against him in terms of the agreement.

13. It is, however, made clear that if in the mean time any criminal case or certificate proceeding has already been initiated against the petitioners, the same shall not be in any way adversely affected, in keeping with Clause 12 and 15 of the agreement which empowers the Corporation to take legal action including recovery of the amount due from the petitioners by way of certificate proceedings under the Bihar Public Demand Recovery Act, 1914.”

(Emphasis supplied by me)

It is in the backdrop of the opinion formed by the Bench that the case of the petitioner questioning the certificate proceeding bearing Certificate Case No.3 of 2014-15 came up for consideration and the Bench by order dated 23.7.2014 disposed of the writ petition bearing CWJC No.9402 of 2014 in terms of the judgment passed in **M/s Shivam Mini Modern Rice Mill** (supra). There is thus an inter-party judgment

binding the petitioner in terms of the opinion so expressed as reproduced hereinabove. The petitioner yet makes a second attempt to question the certificate case and surprisingly even when he is bound by the judgment passed in CWJC No.9402 of 2014 he seeks indulgence relying upon an order passed in CWJC No.18949 of 2015 inter alia canvassing that a similar situation exists in the said case.

Having heard learned counsel for the parties and considering that the contest raised by the petitioner to question the certificate proceedings in question has reached its finality in the judgment and order passed in CWJC No.9402 of 2014, the second round attempt by the petitioner is an abuse of the process of the court and even the reference to the order passed by a coordinate Bench of this Court in CWJC No.18949 of 2015 would not give him a fresh cause of action. In fact in the admitted circumstances discussed above, this writ petition is misconceived and is dismissed accordingly.

(Jyoti Saran, J)

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