

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1952 of 2014

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Amit Kumar, Son of Late Nand Kumar Gupta, Resident of Village, P.O. and P.S. Fesar District - Aurangabad at present residing at Mohalla - Subhash Nagar, P.O. and P.S. Dehri, Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. The Collector, Aurangabad
3. The Certificate Officer, Aurangabad
4. The Bihar State Food and Civil Supplies Corporation, Aurangabad through Its District Manager, Aurangabad

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajendra Narain, Sr. Advocate
Mrs. Leelawati Kumari, Advocate

For the Respondents : Mr. J.S. Barnwal, GA 5

For the BSFC : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-03-2016

Heard learned senior counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for quashing of entire proceedings of Certificate Case No. 24/2013-14 including the notice issued under Section 7 of the Bihar & Orissa Public Demand Recovery Act (for short, “the Act”) initiated against the petitioner without complying with the provisions of the Act for recovery of Rs. 19,12,768/-.

3. Mr. Rajendra Narain, learned senior counsel for the petitioner, submits that the entire recovery proceedings initiated against the petitioner are illegal and unsustainable in law. The amount



sought to be recovered through the certificate proceedings relates to the petitioner's father who was working as the Block Extension Officer-cum-Incharge, Paddy Crop Purchase Centre, Rafiganj-1 (Aurangabad). It is stated that the petitioner was granted compassionate appointment on 03.10.2013 consequent upon the death of his father on 20.09.2012. It is submitted that the petitioner has, therefore, no connection whatsoever with the recovery of the amount in question for which the proceedings have been instituted by the Certificate Officer on 04.10.2013 for recovery of Rs. 18,62,768/- on the very next day after the petitioner's appointment.

4. Despite adequate opportunity being granted to the respondent-Corporation for filing counter affidavit vide orders of this Court dated 01.02.2016, 16.02.2016, 24.02.2016 and 03.03.2016, no counter affidavit has been filed controverting the averments made in the writ petition. Learned counsel for the respondent-Corporation is also not present in Court when the matter is called.

5. Having regard to the submissions on behalf of the petitioner as well as the materials available on record, this Court finds merit in the writ petition. It is a matter of record that by order no. 146/2013-14 issued under Memo No. 430 dated 03.10.2013, the petitioner was granted compassionate appointment, whereas the certificate proceeding has been initiated by the Certificate officer on

the very next day i.e. on 04.10.2013 in relation to the custom milled rice. It is evident that the petitioner did not have any connection with the amount sought to be recovered as the certificate itself indicates that the amount was being recovered from the legal heir of the certificate debtor.

6. In the above view of the matter, the certificate proceedings including the notice dated 17.10.2013 issued under Section 7 of the Act in Certificate Case No. 24/2013-14 are hereby quashed. The writ petition stands allowed.

(Vikash Jain, J)

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