

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8430 of 2014

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Raj Balav Singh, Son of Shri Shiv Narayan Singh Proprietor M/S Kisan Rice Mill,
Resident of Village + P.O. - Narsanda, P.S. - Chandi, District - Nalanda.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Managing Director, Bihar State Food & Civil Supply Corporation Limited, Patna.
3. The District Magistrate, Nalanda.
4. The Certificate Officer, Nalanda.
5. The District Manager, Bihar State Food Corporation, Bihar Sharif, Nalanda.
6. The District Supply Officer, Bihar Sharif, Nalanda.
7. The S.D.O. Bihar Sharif, Nalanda.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Kumar, Advocate
For the Respondents : Mr. A.Ujjwal, SC 25
For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-07-2016

The present writ petition has been filed for a direction to the respondents to lift the remaining paddy & custom milled rice (CMR) lying with the petitioner; to pay the milling charge including paddy unloading charge, rice loading charge along with the fare of the truck which is provided by the petitioner for lifting the rice from his Mill; and for quashing of the notice issued under the signature of Certificate Officer, Nalanda in Case No. 25/13-14 by which an order for the recovery of Rs. 1,87,83,396/- for the cost of 8673.69 quintal rice and to declare the certificate illegal and arbitrary.

2. According to the petitioner, an agreement dated



04.02.2013 (Annexure-1) for procurement of the paddy for the year 2012-13 was entered into between the parties, inter alia, providing the petitioner to lift the paddy from the procurement centre of the Bihar State & Civil Supplies Corporation Limited (for short, “BSFC”) and deliver back the proportionate percentage of CMR. Despite request by the petitioner, the respondent-BSFC has failed to lift the CMR owing to non-availability of trucks. It is stated that even though the last date for receiving CMR was fixed on 30.09.2013 and later extended upto 31.12.2013, the petitioner continued to receive the paddy after the said cut-off date upto January, 2014 and hence the respondent-BSFC is bound to accept the CMR offered by the petitioner.

3. Learned counsel for the petitioner submits that the Certificate Case No. 25 of 2013-14 has been initiated for recovery of Rs. 1,87,83,396/- from the petitioner under the provisions of the Bihar & Orissa Public Demands Recovery Act, 1914 (for short, “the PDR Act”).

4. The immediate concern of the petitioner in this case is that a warrant of arrest has been issued against him in connection with the aforesaid dues without, however, disposal of his objection petition dated 29.04.2014 filed u/s 9 of the PDR Act (Annexure-14).

5. Learned counsel for the respondent-BSFC, on the other hand, invites attention to the order dated 8th/9th February, 2016



recorded in Certificate Case No. 25 of 2013-14, according to which the facts of the case are no longer in dispute as the petitioner had duly admitted the entire dues. He had already made payment of an amount of Rs. 8,00,000/- and had requested to be permitted to make payment of the remaining amount in 25 instalments. Thereafter it was recorded in the order dated 18.04.2016 that the petitioner had till then made payments in all aggregating to Rs. 25,00,000/- and thus an amount of Rs. 1,62,83,396/- remained to be recovered for which a warrant was directed to be issued.

6. Having heard the parties and on consideration of the materials available on record, this Court is of the view that the ends of justice will be met if the Certificate Officer, Nalanda is directed to consider and dispose of the aforesaid objection petition filed under Section 9 of the PDR Act on its own merits in terms of Section 10 of the said Act in accordance with law within a period of four weeks from the date of receipt/production of a copy of this judgment.

7. It is made clear that until disposal of the aforesaid objection petition, the Certificate Officer, Nalanda shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 25 of 2013-14.

8. As regards the prayer for directing the respondents to lift the CMR and for payment of dues of the petitioner as claimed, this

Court is not inclined to enter into the merits of the issue in view of the petitioner having accepted his liability in the certificate proceedings as aforesaid and it is left open to the petitioner to seek any such remedy as may be available to him in this regard in accordance with law.

9. The writ petition along with I.A. No. 5012 of 2016 stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.07.2016
Transmission Date	N/A