

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11803 of 2016

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Saroj Kumar son of Narad Muni proprietor of Sri Shankar Ji Mini Rice Mill, Barhari, resident of village - Barhari, P.S. - Kargahar, District - Rohtas (Sasaram).

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, District - Rohtas (Sasaram).
2. The Bihar State Food and Civil Supplies Corporation Limited through its M.D, Bihar at Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Rohtas (Sasaram), District - Rohtas at Sasaram.
4. The District Certificate Officer, Rohtas (Sasaram), District - Rohtas (Sasaram).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
Mr. Satyendra Prasad Singh, Advocate
For the Respondent/s : Mr. R.B. Prasad Yadav, AAG-11
Mr. A.K. Dubey, A.C. to AAG-11

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 28-10-2016

Heard learned counsel for the petitioner and learned counsels for the State and for the Bihar State Food and Civil Supplies Corporation.

The petitioner seeks quashing of the entire certificate proceedings of Certificate Case No. 11 of 2014-15.

The main point, being pressed by learned counsel for the petitioner, is that the certificate has been signed by the District Manager, Bihar State Food and Civil Supplies Corporation, Rohtas, Sasaram and, therefore, the certificate itself is invalid as



per the law laid down by a long line decisions of this Court, and thus there is no certificate case pending before the Certificate Officer in the eye of law.

Learned counsel for the State submits that the petitioner has appeared before the Certificate Officer but has not raised any such objection regarding the jurisdiction of the Certificate Officer.

In support of the same, learned counsel for the State relies upon a decision of a learned single Judge of this Court in the case of Kewat Sah vs. The State of Bihar and others: 2015 (4) PLJR 853.

The proposition in the said case is that once the petitioner had appeared before the Certificate Officer and had filed his objection under Section 9 of the Bihar and Orissa Public Demand Recovery Act without raising the question of maintainability of the certificate proceedings, he cannot be now allowed to raise the question of the certificate proceedings being not maintainable.

In my view in the facts of the said case, there was no such stand that the certificate itself was invalid having been signed by the District Manager.

The present matter is directly on the point which has been dealt with by this Court in the case of M/s. Vishnu Sugar Mills Ltd. vs. The State of Bihar and others: 2015 (1) PLJR 863, in



which a large number of decisions including that of a Division Bench of this Court have been considered and reference has been made to a case where the District Mining Officer having signed the certificate, it was held that the same would be invalid. Once the certificate itself gets vitiated and there is no validity of such certificate in the eye of law it becomes a pure question of law, which can be considered at any stage even if the objection has not been made at the earlier stage.

For the aforesaid reasons, the writ application is allowed and the Certificate Case No. 11 of 2014-15 is quashed. It will be open to the respondents to proceed afresh in the matter, if permissible in accordance with law.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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