

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.716 of 2016

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1. M/s Maa Mundeswari Bhandar Milling through its Proprietor Ganesh Sah Son of Late Jhari Sah Resident of village - Bhabhua, P.S. Bhabhua, District - Kaimur (Bhabhua)

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, District Kaimur (Bhabhua)
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, Kaimur (Bhabhua), District Kaimur (Bhabhua)
4. The District Certificate officer, Kaimur (Bhabhua), District - Kaimur (Bhabhua)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.

For the Respondent/s : Mr. Ritesh Kumar, SC33

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-05-2016

Heard Mr. Sumeet Kumar Singh, learned counsel for the petitioner, Mr. Ritesh Kumar S.C.33 for the State and Mr. Shailendra Kumar Singh learned counsel for the Corporation.

With the consent of the parties, the writ petition is being disposed of finally at the stage of admission itself.

The petitioner prays for quashing of the entire certificate proceeding arising from Certificate Case No. 77 of 2014-15 initiated at the instance of the District Manager inter alia for recovery of dues towards price of Custom Milled Rice stated to be outstanding against the petitioner. A copy of the requisition is present at Annexure-5B, a copy of the certificate is present at Annexure-5A and a notice issued

under Section 7 of the Bihar and Orissa Public Demand Recovery Act,1914 (hereinafter referred to as 'the Act') is present at Annexure-5.

This matter was last heard on 2.5.2016 and appreciating the argument of Mr. Sumeet Kumar Singh learned counsel for the petitioner in so far as it assailed the certificate issued under Sections 4 and 6 of 'the Act' in the backdrop of the judgment of this court rendered in the case of **Nageshwar Prasad Singh vs. Rai Bahadur Kashinath Singh** since reported in **1958 BLJR 820** more particularly paragraph 13 of the judgment, this Court required an answer from the District Magistrate, Kaimur since the infirmity in the certificate is manifest from the bare perusal. A counter affidavit has been filed and the District Magistrate, Kaimur has admitted to the illegality in the certificate issued under Sections 4 and 6 of 'the Act' present at Annexure-5A by the District Certificate Officer and has appropriately directed him to issue fresh certificate keeping in mind the provisions of Sections 4 and 6 of 'the Act' as well as the stipulations present in the Form-I prescribed under the rules. A copy of the order dated 9.5.2016 issued by the District Magistrate, Kaimur in the backdrop of the observations of this Court passed in the present proceeding has been placed at Annexure-A to the counter affidavit.

In the admitted circumstances, it is only a completion of

formality for this Court to quash the certificate dated 25.7.2014 issued by the Certificate Officer, Kaimur present at Annexure-5A which is accordingly quashed and set aside. The matter is remitted back to the District Certificate Officer, Kaimur for acting in accordance with law and it goes without saying that no sooner a fresh certificate is issued and served upon the petitioner afresh in the prescribed notice under Section 7 of ‘the Act’ that he shall be at liberty to file his objections under Section 9 of ‘the Act’. The petitioner shall be at liberty to raise all issues on the merits of the claim as raised herein during the course of the certificate proceedings. It is made clear that this Court has not expressed any opinion on the merits of the rival contentions.

This writ petition is allowed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.05.2016
Transmission Date	