

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10979 of 2016

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Amod Kumar @ Pramod Kumar, son of Sri Satya Naran Prasad, resident of village+P.O.+P.S.-Uphara, District Aurangabad, Proprietor of M/s Maa Sharda Arwa Rice Mill

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd. Sone Bhawan, Bear Chand Patel Path, Bihar, Patna
3. The District Magistrate, Aurangabad
4. The District Manager, Bihar State Civil Supplies Corporation Ltd. Aurangabad
5. The Certificate Officer, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rama Kant Sharma, Sr. Adv.
Mr. Santosh Kumar Pandey, Adv.
For the Respondent/s : Mr. Ajay- GA12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 14-07-2016

Heard learned counsel for the petitioner, the State and the Corporation.

Mr. Rama Kant Sharma, learned Senior counsel appearing for the petitioner while questioning the certificate proceedings arising from Certificate Case No. 9 of 2014-15 initiated at the instance of the authorities of the Bihar State Food and Civil Supplies Corporation under the provisions of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as 'the Act') and the rules framed thereunder submits that the petitioner is willing to cooperate in the certificate proceedings but even before the petitioner would file his



objection under Section 9 of 'the Act', the Certificate Officer, Aurangabad on the premise that notice under Section 7 of 'the Act' has been duly served on the petitioner has proceeded to issue distress warrant. It is submitted that the signature appearing on the notice matches the name of the petitioner's father but is signed in English though the father of the petitioner is not conversant with the English language. He submits that an application was filed by the petitioner explaining the circumstances before the District Certificate Officer on 14.6.2016, praying for recall of the bailable warrant but which has not been considered and hence the writ petition.

Mr. Sharma submits that the petitioner has deposited a sum of Rs. 20 lacs in compliance of the order granting bail passed in Cr.Misc.No.27026 of 2015, in a case arising from Uphara P.S. Case No. 34 of 2015 as against the certificate amount and would be filing his objection to the demand under Section 9 of 'the Act' but in view of the warrant issued under order dated 25.2.2016 of the District Certificate Officer, Aurangabad he is precluded from participating in the proceeding. Mr. Sharma submits that the petitioner would be filing his objection under Section 9 of 'the Act' latest by 08.08.2016.

Having heard learned counsel for the parties and considering the circumstances where the petitioner even while praying for accommodation to file a purposeful objection has deposited a sum of

Rs. 20 lacs as against the certificate demand, I deem it fit and proper to order for stay the operation of the order dated 25.2.2016 passed by the District Certificate Officer whereby the distress warrant has been issued against the petitioner for four weeks from today. It is made clear that in case the petitioner fails to abide by his undertaking to cooperate in the disposal of the certificate case and fails to file his objection on or before 8.8.2016 then this order shall stand recalled.

This writ petition is allowed subject to the stipulations aforementioned.

(Jyoti Saran, J)

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