

Anish Kumar S/o Shree Bhusan Sharma resident of Village- Jamuawan,
P.S.- Parasbigha, District- Jehanabad.

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Jehanabad.
3. The Bihar State Food and Civil Supplies Corporation Ltd., through its Chairman, Patna.
4. The District Manager, State Food Corporation, Jehanabad.
5. The District Certificate Officer, Jehanabad.

Appearance :

For the Petitioner/s	:	Mr. Siyaram Shahi Mr. Manoj Kumar, Advocates
For the State	:	Mr. Anil Kumar Singh-GP-26 Mr. Nawal Kishore Singh, Advocate
For the BSFC	:	Mr. Aditya Prakash Sahay, Advocate

2 27-09-2016 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 order dated 22.6.2016 passed by the District Certificate Officer, Jehanabad in Certificate Case No. 2/2014-15 by which he has directed for issuance of distress warrant against the petitioner.

A notice of the certificate proceedings was received by the petitioner for payment of Rs. 1,00,10,003/- (One



crore ten thousand and three only), the petitioner filed a preliminary objection stating that the notice received by him did not contain a copy of the requisition and therefore, it was not possible for him to file the objection petition. Thereafter, although it is not clear from the records but the petitioner either having received the requisition or otherwise obtained the copy of the requisition filed another application raising various objections. By order dated 12.9.2015, the copy of the said application was directed to be handed over to the District Manager, Bihar State Food and Civil Supplies Corporation, Jehanabad to file a detailed report and the body warrant and remand order which had been issued earlier was stayed by the Certificate Officer. On 25.5.2016 the Certificate Officer noted that the reply of the certificate holder has not been received. Thereafter on the next date, i.e., 22.6.2016 the impugned order issuing distress warrant was passed.

Learned counsel for the petitioner submits that the default being on the part of the certificate holder in filing the report and without considering and disposing of the objection of the petitioner, the distress warrant could not have been issued.

Learned counsel for the respondent- Food and Civil Supplies Corporation submits that, as a matter of fact, the



earlier objection petition had been dismissed and therefore, it cannot be said that the Certificate Officer was obliged to keep on deciding all and every objection petitions.

Learned counsel for the petitioner submits that the earlier objection has to be treated as preliminary objection as the clear stand of the petitioner was that in the absence of the copy of requisition the certificate proceedings themselves were invalid and it would not have been possible for the petitioner to have filed an objection petition without copy of the requisition and thus the rejection of the same cannot be treated as rejection of the objection petition which, in fact, was filed as the 2nd objection petition after taking into consideration the requisition.

It is submitted that the Certificate Officer had also understood the said position correctly by directing stay of the body warrant and remand order and seeking detailed response from the certificate holder. Therefore, without getting the said response and deciding the objection, in fact, raised by the petitioner, the distress warrant could not have been issued.

This Court is in agreement with the submission of learned counsel for the petitioner. The Certificate Officer having sought the detailed response from the certificate holder, it was not proper for him to have issued a distress warrant without



first having received the said detailed response and disposed of the objection petition of the petitioner in the matter.

The writ application is, accordingly, allowed. The impugned order dated 22.6.2016 is quashed and the matter is remanded to the District Certificate Officer, Jehanabad to dispose of the objection of the petitioner after hearing the parties.

(Ramesh Kumar Datta, J)

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