

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4642 of 2016

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Radheshyam Gupta, son of Sri Ram Kishore Shah, resident of + P.O.- Brahampur
Chourasta, P.S.- Brahampur, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate –cum- Collector, Buxar.
3. The Deputy Collector, Land Reforms –cum- Certificate Officer, Buxar.
4. District Manager, Bihar State Food and Supplies Corporation Ltd., Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar
For the Respondent-State	:	Mr. Uma Shankar, GP-4
For the Respondent-BSFC	:	Mr. Nirmal Kumar
		Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-05-2016

Heard the parties.

With the consent of the parties this matter has been taken up
for consideration with a view to its final disposal at this stage itself.

The petitioner has questioned the proceeding arising from
Certificate Case No.48 of 2013-14 which has been initiated for recovery
of the price of custom milled rice allegedly payable by the petitioner to
the Corporation.

A copy of the agreement is placed at Annexure-1 and amply
empowers the Corporation to institute such proceeding for recovery of
dues and thus there is no invalidation in the initiation of proceedings.
The invalidation is in the requisition placed at Annexure-5 issued under
section 5 of the Bihar and Orissa Public Demands Recovery Act, 1914
(hereinafter referred to as ‘the Act’) by the District Manager, Bihar State
Food and Supplies Corporation, Buxar which is without any verification
and the illegality is perpetuated by the Certificate Officer, Buxar in

issuing the certificate under sections 4 and 6 of ‘the Act’ which also forms part of Annexure-5 series and which neither bears the certificate number nor the columns are filled up. While the requisition is not sustainable in the light of the law settled by this Court in the case of **Hari Prasad Agarwalla vs. The State of Bihar** since reported in **1975 BBCJ 723**, even the certificate issued under section 4 of ‘the Act’ is rendered illegal in view of the law settled by this Court in the judgment reported in **1958 BLJR -820 (Nageshwar Prasad Singh vs. Rai Bahadur Kashinath Singh)**.

The illegality in the requisition issued under section 5 of ‘the Act’ as well as the certificate issued thereupon under sections 4 and 6 of ‘the Act’ is manifest from perusal and requires no explanation. In the circumstances discussed, the requisition under section 5 as well as the certificate issued under sections 4 and 6 of ‘the Act’ are held illegal and are accordingly set aside.

The writ petition is allowed.

This order, however, would not preclude the authorities of the Corporation and the State to proceed afresh for recovery of the dues but in accordance with law.

(Jyoti Saran, J)

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