

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7427 of 2016

Saurabh Rice Mill, Khurd Usari, Shivalpar, Neura, Patna through its Proprietor Sugandh Kumar Sone of Late Shyam Babu Singh, Resident of Village- Kothama, P.O.- Khagaul, P.S.- Khagaul, having registered office at Kothawan, Murgiachak, P.S.- Khagaul, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food and Civil Supplies and Consumer Protection, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation Ltd. through its Chairman –cum- Managing Director, Sone Bhawan, Birchand Patel Marg, Patna-1.
3. The District Magistrate –cum- Collector, Patna, District- Patna.
4. The District Manager, the Bihar State Food and Civil Supplies Corporation Ltd. Patna, District Officer, Patna.
5. The Certificate Officer –cum- Sub-Divisional Officer, Danapur, District-Patna.

Appearance :

For the Petitioner/s : Mr. Abhay Kumar Thakur
For the BSFC : Mr. Shailendra Kumar Singh
For the State : Mr. G.P. Ojha, G.P.-22
Mr. Atal Bihari Pandey, A.C. to G.P.-22

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-05-2016

Heard Mr. Abhay Kumar Thakur, learned counsel appearing for the petitioner, learned counsel for the State and Mr. Shailendra Kumar Singh, learned counsel for the respondent-Corporation.

The writ petition was filed questioning the validity of Certificate Case No.5 of 2013-14 pending before the Certificate Officer –cum- Sub-Divisional Officer, Danapur. The petitioner relying upon a judgment of this Court arising from CWJC

No.13746 of 2013, a copy of which is placed at Annexure-8 to the writ petition has questioned the proceedings.

The learned Single Judge in the judgment so relied upon by learned counsel since reported in **2014(3) PLJR 519(Sone Valley Rice Mill vs. State of Bihar)**, has held that since there is no agreement in between the parties that the arrears of price would be recoverable as a public demand, hence the certificate proceeding is not maintainable. The Court however granted jurisdiction to the Corporation to realize the amount by taking recourse to the other forums available.

It is stated at the bar by Mr. Shailendra Kumar Singh, learned counsel for the Corporation that the judgment of the learned Single Judge was questioned by the Corporation in L.P.A. No. 1576 of 2014 and other cases which have since been allowed by the Division Bench by a judgment and order pronounced today.

In other words, the foundation for the writ petition itself vanishes. Further during the pendency of the writ petition, final orders have also been passed in the certificate case, a copy of which has been brought on record vide Interlocutory Application bearing I.A. No.3473 of 2016.

It is stated by Mr. Thakur, learned counsel appearing for the petitioner that the order has been behind his back. Although

such statement is made by Mr. Thakur but the final order passed by the Certificate Officer dated 8.2.2016 records not only the appearance of the petitioner but also his contest.

In the circumstances discussed and in view of the alternative remedy of appeal so available to the petitioner under section 60 of the Bihar and Orissa Public Demand Recovery Act, 1914, no cause for indulgence is made out at the present stage and the writ petition is disposed of allowing the petitioner to first exhaust the remedy of appeal so available to him in law.

(Jyoti Saran, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	24-5-2016
Transmission Date	