

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16929 of 2015

With
Interlocutory Application No. 1753 of 2016

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Ram Lagan Singh son of Ram Adhar Singh, resident of Village - Kamaldah,
P.O. - Bathnaha, District - Sitamarhi, the Chairman Kamaldah PACS Rice
Mill Kamaldah, P.S. - Bathnaha, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Sitamarhi, District - Sitamarhi.
2. The Bihar State Food Civil Supplies Corporation Limited through its Managing Director, District - Sitamarhi.
3. The District Manager, Bihar State Food Civil Supplies Corporation Limited, Sitamarhi, District - Sitamarhi.
4. The District Certificate Officer, Sitamarhi, District - Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate

For the Respondent Nos.1 & 4 : Mr. Prabhat Kuamr, AC to GA 2

For the Respondent Nos. 2 and 3: Mr. Nirmal Kuamr, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 31-05-2016

Heard the parties.

The learned counsel appearing on behalf of the petitioner submits that the present case is squarely covered by a judgment and order passed by a co-ordinate Bench of this Court, as contained in Annexure-2 to I.A.No. 1753 of 2016. Therefore, according to him, the impugned order as contained in Annexure-4 passed by the District Certificate Officer, Sitamarhi and consequential actions taken are not sustainable in law.

Per contra, the learned counsel appearing on behalf of the respondent no.2 and 3 submits that the impugned order, as contained in Annexure-4 to the writ petition, is appealable as also revisable before the prescribed appellate and revisional authorities as provided under Sections 60 and 62 of The Bihar and Orissa Public Demands Recovery Act, 1914. Therefore, according to him, the present writ petition at this stage is not maintainable and

is liable to be dismissed.

The submissions made by the learned counsel appearing on behalf of the respondent no.2 and 3 appear to be correct.

In above view of the matter, the present writ petition is dismissed with a liberty to the petitioner to approach the appellate authority for grant of appropriate relief(s) with respect to the order impugned.

It goes without saying that if such an appeal is filed, the same shall be considered on its own merits without being prejudiced by the present order.

It is clarified that the petitioner shall be at liberty to raise all the issues of fact and law, which may be available to him with respect to the issues raised in the present writ petition.

If an appropriate memorandum of appeal is filed on behalf of the petitioner before the prescribed appellate authority within a period of three weeks from today with a certified copy of the present order and it is found to have become barred by limitation and if any petition is filed on behalf of the petitioner for condonation of such delay, then the prescribed appellate authority shall take into consideration that on a bona fide legal advice, the present writ petition was filed before this Court on 15.10.2015 and that remained pending till date.

I.A.No. 1753 of 2016 stands, accordingly, disposed of.

(Birendra Prasad Verma, J)

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