IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18022 of 2016

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Shambhu Nath Kesari, proprietor of Priyanshu Rice Mill, son of Narayan Prasad Kesari, resident of village Mahalla rikabganj, P.S. Tikari, District Gaya

.... Petitioner

Versus

1. The Food and Consumer Protection Department through its Principal Secretary, Bihar at Patna
2. The State of Bihar through District Magistrate, District Gaya
3. The Bihar State Food and Civil Supplies Corporation Limited through its M.D. Bihar at Patna
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Gaya, District Gaya
5. The Deputy Chief of Finance, Bihar State Food and Civil Supplies Corporation Limited, Bihar at Patna
6. The District Certificate Officer, Gaya, District Gaya

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
For the BSFC : Mr. Shailendra Kumar Singh, Advocate
For the State : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 28-10-2016 Heard learned counsel for the petitioner and learned counsel for the Bihar State Food and Civil Supplies Corporation.

It is submitted by learned counsel for the petitioner that a Certificate Case bearing No.12 of 2015-16 was instituted against the petitioner for an amount of Rs.18,95,750.10. The total admitted dues against the petitioner with respect to 329.2136 metric ton of CMR rice is Rs.71,29,318.036 against which, admittedly, the petitioner has deposited Rs.52,33,490/- and the balance amount is Rs.18,95,826.04. It is further submitted that the petitioner had informed the authorities that the dues receivable by the petitioner from the respondent Corporation was Rs.16,56,463.10 towards milling and transporting-cum-handling charges and after adjustment of the said amount the amount payable by the petitioner comes to Rs.3,92,198/-, which fact is substantially admitted by a letter dated 4.8.2016 issued by the District Manager, Gaya to the Certificate Officer, Gaya where the proceedings were pending, that steps were being taken for adjustment of the amount of Rs.2,11,210.10 payable to the petitioner against milling and transporting-cum-handling charges. It is submitted that despite the said position the petitioner's name has been included in the list of defaulter millers who have not yet paid the amount, stating in the said list that an amount of Rs.18,95,828.04 is due against the petitioner.

Evidently, the aforesaid letter and list, in so far as the petitioner is concerned, show complete non-application of mind by the issuing authority, the Managing Director of the Corporation and is contrary to the records available with them. If milling, transportation charges, etc. are due and payable to the petitioner from the Corporation then instead of seeking realization of the aforesaid amount of CMR rice, necessary first step should be for adjustment of the said amount due against the petitioner and only if any further amount remains due against the petitioner, the same can be recovered through the certificate process.

Learned counsel for the petitioner submits that if any amount is due after adjustment of the milling and transportation charges then the petitioner would deposit the same within a period of four weeks from the intimation of the said amount to the petitioner.

Learned counsel for the Corporation submits that so far as the impugned letter dated 17.10.2016 is concerned, the same is a general letter and, as a matter of fact, the Corporation has established a Three-Man Committee at its headquarters to look into the matters of all the rice millers with regard to the bills submitted by them towards milling and transportation charges, so that the same may be either adjusted or refunded as the case may be.

In view of the aforesaid fair stand on behalf of the respondent Corporation, the writ application is allowed with the direction that the letter dated 17.10.2016, in so far as it concerns the petitioner, shall not be acted upon nor the certificate case shall be proceeded with further until the respondents have finalized the aforesaid bills of the petitioner and in case after such finalization any amount is due and payable to the petitioner, the same shall be refunded to him and if it is realizable by the Corporation then the petitioner shall pay the balance amount within four weeks after finalization of the same and/or communication of the finalization to the petitioner.

(Ramesh Kumar Datta, J)

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