

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10401 of 2014

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Vishwanath Kedia son of Late Anandi Lal Kedia, resident of Dumwalia, P.O. Naraipur, P.S. Bagaha II and District West Champaran

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna
2. Bihar State Food & Civil Supplies Corporation, Sone Bhawan, Birchand Patel Path, Patna through its Managing Director
3. The Managing Director, Bihar State Food & Civil Supplies Corporation, Sone Bhawan, Birchand Patel Path, Patna
4. The District Magistrate, Bettiah, West Champaran
5. The District Manager, Bihar State Food & Civil Supplies Corporation, Bettiah, West Champaran

.... Respondents

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Appearance :

For the Petitioner : Mr. Ramesh Kumar Agrawal
Mr. Shive Kumar, Advocates
For the State : Mr. M.K.Singh, AC to SC 6
For the BSFC : Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 01-03-2016

The present writ petition has been filed for a direction to the respondents to pay the milling charges of paddy pursuant to the agreement executed between the petitioner and the respondent-Corporation; to pay the cost of loading & unloading, transportation etc, which have been incurred by the petitioner for carrying the paddy from the paddy procurement centre to the petitioner's mill premises and the custom milled rice to the godown of Food Corporation of India, Chanpatia; to lift the remaining quantity of CMR (Custom Milled Rice) which is lying in the petitioner's Rice Mill premises; and

for connected reliefs.

2. In view of subsequent developments, I.A. No. 1612 of 2016 has been filed for amendment of the relief portion in the writ petition by adding the following prayers:

“(iva) For quashing the entire certificate proceeding bearing District Certificate Case No. 28/14-15 (District Manager, SFC Vs. M/s Gayatri Rice Mill) including notices dated 07.10.2014 and 05.01.2016 (Annexure-14 and 16) issued by the District Certificate Officer, Bettiah (West Champaran).

(ivb) For holding that in the facts and circumstances of the present case there is no dues of the respondent SFC with the petitioner.”

3. The facts in relation to the aforesaid prayer are also sought to be brought on record by adding paragraphs 29A to 29K as enumerated in the interlocutory application and so also the prayer for interim relief. The petitioner has also prayed to implead the District Certificate Officer, Bettiah (West Champaran) as party respondent.

4. Having regard to the nature of the prayers, the interlocutory application is allowed and the petitioner is permitted to make amendments in the writ petition accordingly.

5. Learned counsel for the petitioner submits that the demand of Rs. 52,66,589.95 against the petitioner towards remaining quantity of CMR (Custom Milled Rice) at the rate of Rs. 2165.56 per quintal is arbitrary and unsustainable, rather the respondents are liable



to make payment of milling charges along with the cost of loading and unloading, transportation etc. to the petitioner in accordance with the agreement. It is further submitted that vide letter no. 3274 dated 24.06.2014 (Annexure-6), the petitioner had been directed to sell CMR and make payment of the sale proceeds to the respondent-Corporation. The petitioner accordingly deposited Rs. 16,38,287/- out of the total sale proceeds of Rs. 26,48,390/- after deducting a total amount of Rs. 10,10,369.27 towards transportation, handling and milling charges, security money etc. In the meantime and during the pendency of the writ petition, District Certificate Case No. 28/2014-15 has been initiated against the petitioner and a notice under Section 7 of the Bihar & Orissa Public Demands Recovery Act, 1914 (for short, "the Act") has been issued for recovery of Rs. 42,66,589.95.

6. The immediate concern of the petitioner in this case is that a warrant of arrest has been issued against him in connection with the dues amounting to Rs. 42,66,589.95 recoverable in terms of the notice dated 07.10.2014 issued by the District Certificate Officer, West Champaran at Bettiah in Certificate Case No. No. 28/2014-15.

7. It is further submitted that an objection petition under Section 9 has already been filed before the Certificate Officer (Annexure-15) which is pending but without disposing of the same, the warrant of arrest has been issued.

8. With the consent of parties, the present writ petition is disposed of with direction to the District Certificate Officer, West Champaran at Bettiah to consider and dispose of the objection petition under Section 9 of the Act said to have been filed by the petitioner, on its own merits, in accordance with law and in terms of Section 10 of the said Act within a period of four weeks from the date of receipt/production of a copy of this judgment.

9. It is made clear that until disposal of such objection petition, the District Certificate Officer, West Champaran at Bettiah shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. No. 28/2014-15.

B.T/-

(Vikash Jain, J)

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