

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8484 of 2016

With

I.A. No.5196 of 2016

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M/s Roshan Rice Mill, a Proprietorship Firm, having its place of business at Industrial Area, Ram Nagar, P.S. Ram Nagar, District- West Champaran, through its Proprietor, Roshan Jaiswal, son of Satendra Prasad Jaiswal, resident of At, P.O. & P.S.- Ram Nagar, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001, through its Managing Director.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, West Champaran, Bettiah.
5. The Senior Deputy Collector -cum- Certificate Officer, West Champaran, Bettiah.
6. The District Magistrate, West Champaran, Bettiah.
7. The Sub Divisional Officer, Bagaha, District- West Champaran.
8. The Block Development Officer, Ram Nagar, District- West Champaran.
9. The Circle Officer -cum- Block Supply Officer, Ram Nagar, District West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Suraj Samdarshi
For the Respondent-State	: Mr. Manoj Kr.Ambastha, GP-14 Mr. Subodh Kumar, AC to GP-14
For the Respondent-BSFC	: Mr. Aditya Prakash Sahay

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-07-2016

Heard Mr. Suraj Samdarshi, learned counsel appearing
for the petitioner, Mr. Manoj Kumar Ambastha, learned
Government Pleader no.14 for the State and Mr. Aditya Prakash
Sahay, learned counsel appearing for the Bihar State Food and Civil

Supplies Corporation (hereinafter referred to as 'the Corporation').

In the nature of the order which this Court proposes to pass it would not require to delve deep into the issue. Suffice it to say that the petitioner, a rice mill is aggrieved by the final order dated 1.4.2016 passed by the District Certificate Officer, West Champaran, respondent no.5 in the proceedings initiated under the provisions of the Bihar and Orissa Public Demands Recover Act, 1914 (hereinafter referred to as 'the Act') and the Rules framed thereunder giving rise to Certificate Case No.13 of 2013-14, whereby the certificate demand has been upheld. The copy of the final order is a part of the order-sheet impugned at Annexure-18 to the writ petition.

Facts of the case lie in a narrow compass and the proceedings in question was initiated on a requisition filed by the District Manager of 'the Corporation' on 5.12.2013, a copy of which is present at Annexure-14 charging the petitioner for non-supply of custom milled rice (hereinafter referred to as the 'CMR') quantified at Rs.1,77,58,799/- comprising of principal and interest accrued thereon. On the requisition so filed, a certificate of demand was issued by District Certificate Officer, a copy of which is present at Annexure14/A. The petitioner filed a detailed objection to the notice issued under section 7 of 'the Act', under section 9 of 'the Act' questioning the proceedings on merits as well as on law

and which has been disposed of by the impugned order passed on 1.4.2016, a copy of which is present at page 79 which is a part of Annexure-18.

Mr. Samdarshi, learned counsel appearing for the petitioner while addressing the Court on merits, has also questioned the impugned order on grounds that it is in violation of the provisions underlying section 10 of 'the Act' which cast an obligation on the District Certificate Officer to dispose of the proceedings after opportunity of hearing to the parties and upon recording evidence, which mandate remains unfulfilled. With reference to the order dated 29.2.2016 present at page 78 he submits that the District Certificate Officer has abdicated his jurisdiction vested in him under 'the Act' to dispose of the matter in a quasi judicial manner by following the procedure provided under section 10 of 'the Act' for it is only upon filing of the objection by the petitioner and filing of reply by the certificate-holder that the matter has been posted for final orders. He thus submits that the order passed is in violation of the mandatory conditions underlying section 10 of 'the Act'.

The argument advanced by Mr. Samdarshi is supported by the materials on record. The order passed on 29.2.2016 records the filing of reply by the certificate-holder and whereafter the matter has been posted for orders. It is not in dispute that the

objection had been filed prior thereto and has also been taken note of in the impugned order but then that does not satisfy the statutory requirement of the summary disposal of the proceedings initiated under 'the Act'. The provisions underlying section 10 of 'the Act' reads thus:

“10. Hearing and determining of such petition.- The Certificate Officer in whose office the original certificate is filed shall hear the petition, take evidence (if necessary) and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate was signed; and may set aside, modify or vary the certificate accordingly:

Provided that if the Certificate Officer is not the Collector, and considers that the petition involves a bonafide claim of right to property, he shall refer the petition to the Collector for orders, and the Collector, if he is satisfied that a bonafide claim or right of property is involved, shall make an order cancelling the certificate”.

There is no contest on the issue framed by Mr. Samdarshi that the certificate officer is under an obligation not only to hear the parties but also to permit the parties to lead evidence in support of their respective claim and which mandate has not been followed. On this short count the prayer made by the petitioner is fit to be upheld and as a consequence the order dated 1.4.2016 passed by the District Certificate Officer, West Champaran in Certificate Case No.13 of 2013-14 is held illegal and is quashed and set aside. The matter is remitted back to the District Certificate Officer, West Champaran for its consideration afresh and disposal in accordance

with law and in tune with the provisions underlying section 10 of ‘the Act’. The petitioner shall be at liberty to raise all issues of facts and law in reference to his objection petition during the course of hearing.

It is submitted by Mr. Samdarshi that warrant has been issued. Since the order casting liability on the petitioner itself has been set aside hence the order issuing warrant against the petitioner becomes unsustainable and is accordingly set aside.

The parties would appear before the District Certificate Officer, West Champaran at Bettiah on 12th of July, 2016 at 11.00 AM and when he shall proceed to consider and dispose of the matter in the manner indicated above.

The writ petition is allowed. I.A. No.5196 of 2016 stands disposed of.

(Jyoti Saran, J)

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AFR	
CAV DATE	
Uploading Date	03-07-2016
Transmission Date	