

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4542 of 2016

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Kumud Narayan Singh through its Proprietor Laxmi Rice Mill, s/o Sri Kamta Prasad Singh Resident of Village- Dhanushi, Po Ghataro, P.s Kartahan, Distt Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar , through the Principal Secretary, Food and Consumer Protection Govt. of Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supply Corporation, Sone Bhawan, Patna Bihar.
3. The District Collector, Vaishali District Hajipur.
4. The District Manager, Bihar State Food and Civil Supply Corporation, Vaishali, Hajipur.
5. The Certificate Officer, Hajipur, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Senior Advocate
Mr. A.N. Mishra

For B.S.F.C. : Mr. Aditya Prakash Sahay

For the State : Mr. B.N. Singh, A.C. to G.A.10

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

6. 03-10-2016 Heard learned counsel for the petitioner and learned counsels for the State and for the Bihar State Food and Civil Supplies Corporation.

The petitioner has approached this Court seeking quashing of the order dated 30.12.2014 passed by the Certificate Officer, Vaishali, Hajipur initiating proceedings for recovery of Rs.63,39,890/- on account of price of custom milled rice and further for declaring the entire proceedings under the PDR Act as illegal and without jurisdiction.

Various issues have been raised in the writ petition but ultimately, learned counsel for the petitioner has sought to argue



the matter on the basis that the certificate itself is not in accordance with the requirement of the Bihar Public Demand Recovery Act and, therefore, the entire proceedings are without jurisdiction and ought to be quashed.

In support of his stand, learned counsel for the petitioner relies upon a decision of this Court in the case of M/s. Vishnu Sugar Mills Limited v. The State of Bihar and others: 2015 (1) PLJR 863, in which case on the basis of a long line of decisions of this Court it has been decided that the duty of the certificate officer is to ensure that all the requirements in Form-1 are duly complied with and nothing is left blank and the Certificate Officer has to record his satisfaction that the demand is due and thereafter the certificate can be signed by him.

From a perusal of the certificate, which is annexed to the writ petition, it is evident that the details are not found and even the column has been changed while issuing the certificate without indicating as to which column the particulars belong. Names of certificate debtor and holder are not mentioned under the column. Moreover, I find that it is not certified at the bottom of the certificate that the demand is due to the person concerned. The further certification with regard to the particular amount is also absent stating that it is just recoverable and its recovery by suit is not barred by law. Even the date is not mentioned at the place provided in the form.



In the decision of this Court in M/s. Vishnu Sugar Mills case (supra) in paragraph Nos. 14 and 15 it has been held as follows:-

“14. Hence, the present case is squarely covered by the aforesaid catena of Division Bench decisions of this Court. As laid down in the aforesaid decisions itself the duty of the Certificate Officer is to ensure that all the requirements in Form-1 are duly complied with and nothing is left blank. Moreover, it is an essential precondition that the Certificate Officer has to record his satisfaction that the demand is due and thereafter the certificate can be signed by the Certificate Officer and the certificate filed in his office for recovery of the certificate dues. That not having been done in the present matter, it cannot be said that any jurisdiction was acquired by the District Certificate Officer to proceed in the matter and pass any orders.

15. The entire certificate proceedings are, therefore, held to be without jurisdiction. The certificate proceedings as also the orders passed therein under Section 10 of the Act are, accordingly, quashed. The respondents, however, shall have liberty to initiate fresh certificate proceedings in accordance with law.”

Learned counsels for the State and for the Bihar State Food and Civil Supplies Corporation are unable to defend the certificate except to say that the certificate case should not be quashed on mere technicalities. The said submission has no



validity in the eye of law.

It is the law that the certificate must be filled as per the requirement prescribed in Form-1 and in absence of the same it has been held to be invalid by a catena of Division Bench decisions of this Court as discussed in the decision in the case of M/s. Vishnu Sugar Mills (supra).

In the aforesaid view of the matter, it is held that the certificate proceedings in the absence of proper filling of Form-1 and certification are without jurisdiction. Thus, the certificate proceedings as also the orders passed therein are quashed.

So far as the other issues raised regarding the arbitration clause, etc. are concerned, in the circumstances they do not apply to the present case and the parties would be at liberty to take recourse to appropriate proceedings. It is further made clear that it shall be open to the respondents to initiate fresh certificate case in the matter if permissible in law and, if so advised.

The writ application is, accordingly, disposed of.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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