

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1362 of 2017

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1. Naresh Prasad Singh, Son of Late Ram Pravesh Singh, R/o Village- Karan Bigha, P.S.- Mehandia, District- Arwal, at present behind Keshav College, P.S.- Baroon, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, District- Aurangabad.
2. The District Magistrate, Aurangabad, District- Aurangabad.
3. The Bihar State Food and Civil Supply Corporation Limited through its M.D. Bihar at Patna.
4. The District Manager Bihar State Food and Civil Supply Corporation Limited Aurangabad, Dist.- Aurangabad.
5. The Certificate Officer, Dist.- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary
For the BSFC : Mr. Shailendra Kumar Singh
For the State : Mr. S. Raza Ahmad, AAG 5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-02-2017

Heard the parties.

In the present writ petition, petitioner is challenging the action of Certificate Officer, Aurangabad vide letter no.720 dated 25.11.2016 by which warrant of arrest has been issued against him. Petitioner has moved earlier before this Court vide C.W.J.C. No. 9263 of 2015 whereby this Court has disposed of the same in the following manner:

“5. With the consent of parties, the present writ petition is disposed of granting liberty to the petitioners to file their petition under Section 9 of the Act within a period of three weeks from today, which, if done, shall be disposed of by the



Certificate Officer on its own merits within a further period of four weeks thereafter in accordance with law and in terms of Section 10 of the said Act.

6. It is made clear that until disposal of such petition, if filed, the Certificate Officer, Aurangabad shall not resort to any coercive action for recovery of the dues against the petitioners in Certificate Case No. 50/2014-15 and Certificate Case No.47/2014-15 and 04/2014-15.”

Thereafter again petitioner and others have approached this Court vide C.W.J.C. No. 4634 of 2016 which was disposed of taking cognizance of the fact that petitioner has shown eagerness to deposit demanded amount and the Court in such circumstances directed to make payment in reasonable equal monthly installments beginning from July, 2016 to January, 31st, 2017. It will be relevant to quote relevant portion of the order.

“ In the circumstances discussed and taking note of the willingness of the petitioners to make payment of the outstanding amount in reasonable installments, I deem it fit and proper to dispose of the writ petition with a direction to the three petitioners herein to make payment of the entire balance outstanding amount discussed hereinabove in reasonable equal monthly instalments beginning from July, 2016 to be completed within a period ending on January, 31, 2017. The equal monthly installments so calculated by the three petitioners in context with their respective outstanding, should be deposited by the 10th of each month beginning from July, 2016 and any default by the petitioners in two consecutive months would result in the recall of the present order, dismissal of the writ petition and consequentially the certificate



proceedings in question initiated against the defaulting petitioner would revive, leaving it open for the District Certificate Officer, Aurangabad to proceed against the defaulting petitioner(s) in accordance with law. So along as the petitioners abide by the directions of this Court as directed hereinabove, the respective certificate proceedings so initiated against them shall remain in abeyance.

In so far as the claim raised by the petitioners against the Corporation is concerned, it is independent cause of action unconnected with the certificate proceedings of the petitioners shall be at liberty to raise the same before the managing Director of the Corporation and who shall consider and dispose of the same either by himself or by authorizing any other officer of the Corporation competent to do so.

The writ petition is disposed of in terms of the directions and stipulations mentioned above.”

Against that order petitioner and others moved this Court vide L.P.A. No.1472 of 2016 and the period of depositing the installment has been extended up to March, 1917 but before expiry of the period the Certificate Officer has issued warrant of arrest which is not permissible in law as Certificate Officer cannot sit over the order of the Division Bench.

In such circumstances, the order of warrant of arrest issued by the Certificate Officer, Aurangabad vide letter no.720 dated 25.11.2016 is hereby set aside. If petitioner fails to deposit the amount within the aforesaid period as has been given by the Division bench the Certificate Officer will be at liberty to take action under the Bihar & Orissa Public Demand



Recover Act, 1914. This order is only confined to the petitioner.
Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.2.2017
Transmission Date	

