

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10148 of 2017

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Narad Yadav, S/o Late Bira Yadav, Proprietor of M/s Jay Maa Durga Rice Mill,
Ahirauliya, Resident of Village- Ahirauliya, P.O.- Ahiraulia, P.S.- Ramgarhwa,
District- East Champaran.

.... 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- East Champaran.
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, East Champaran, District- East Champaran.
5. The District Certificate Officer, East Champaran, District- East Champaran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.

For the Respondent/s : Mr. Arvind Ujjwal- S.C.-4

For B.S.F.C. : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-07-2017

Heard learned counsel for the petitioner, learned
counsel for the Bihar State Food and Civil Supplies Corporation
Limited and learned counsel for the State.

2. In this case, the petitioner is challenging the order
dated 05.02.2016 passed in Certificate Case No.40(food) of 2014-
15 by the Certificate Officer, East Champaran, Motihari.

3. The petitioner is a miller, under the agreement the



petitioner was provided the paddy for milling and he was required to return the proportionate amount of the C.M.R. When, he has not returned the C.M.R., the aforesaid proceeding has been initiated. The total assessment has been made for Rs.1,47,20,732/-.

4. After lapse of more than one year, the petitioner has approached this Court in the present proceeding, raising the plea that the proceeding itself suffers from inherent defects; that the Certificate was not properly verified, having been not signed by the competent authority as required under the Act, requisition was not properly filled up and the amount was not properly assessed.

5. These are the question of facts. The petitioner should have raised all these points before the Certificate Officer. When the order has been passed, more than one year he remained silent and instead of approaching the appellate authority has directly approached this Court. The probity is required of the petitioner, instead of approaching this Court he should have filed an appeal and should have taken all the points available in his favour.

6. There is no dispute on the proposition of law if the requisition and the certificate suffer from inherent defects, it can be raised at any stage, but it should be pure question of law having no



interference of any fact. These issues can be raised before the appellate authority as the appeal is continuation of the trial and he has same power as that of the Trial court.

7. In such view of the matter, this Court is not inclined to interfere with the matter on two grounds i.e. on the ground of delay as well as on the ground that these points can be raised by the petitioner before the appellate authority. If the petitioner files an appeal before the appellate authority within four weeks from today along with limitation petition, if any, and stay petition. Till the disposal of the stay petition, the authority will not take any coercive action against the petitioner. But, if the petitioner fails to file the appeal within aforesaid period and also fails to obtain the stay order from the appellate authority, then the authority will be at liberty to take action against the petitioner in accordance with law.

8. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	31.07.2017
Transmission Date	N/A

