

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9046 of 2017

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Abhay Kumar, son of Baijnath Singh, Resident of Village- Devkali, P.S.- Obra,
District- Aurangabad.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brij Bihari Tiwary, Adv.
For the State	:	Mr. Alok Ranjan, AC to AAG-5
For the BSFC	:	Nirmal Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-10-2017

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 4.3.2016, whereby and whereunder, the Certificate Officer, Aurangabad, after considering the objection filed by the petitioner, has directed the petitioner to deposit Rs. 47,57,822/-.

The petitioner is a miller, was handed over 7712 quintals of paddy during the period 2012-13. In terms of the agreement, the petitioner was to return rice at the rate of 67% i.e. 5167.04 quintals of C.M.R. out of which the petitioner has deposited only 2370 quintals



of C.M.R. and the petitioner failed to return the rest 2797 quintals of C.M.R. which amounts to Rs. 47,57,822/-. Out of that, the petitioner has deposited only Rs. 9,60,000/- and still the petitioner has to deposit Rs. 37,97,822/-.

Earlier the petitioner had approached this Court in C.W.J.C. No. 11374 of 2015 and this Court, vide order dated 10.8.2015, remanded the matter back for consideration of the objection filed by the petitioner and pass an order. The same was considered and the Certificate Officer has disposed of the objection. Learned counsel for the petitioner submits that the Certificate Officer has neither considered the objection what he has raised nor the amount, which he is entitled by way of transportation and milling, have been adjusted and without applying his mind, the Certificate Officer has passed the final order. The objection filed under Section 9 of the P.D.R. Act does not reflect any claim of transporting and milling by the petitioner.

The counter affidavit discloses the total outstanding dues is Rs. 37,57,822/- along with interest rather, the Certificate Officer, without considering the aspect of depositing the amount of Rs. 9,60,000/-, without applying the mind has quoted Rs. 47,57,822/- which itself discloses non-application of mind.

In such view of the matter, the order dated 4.3.2016



passed by the Certificate Officer, Aurangabad is set aside and the matter is remanded back to the Certificate Officer who will consider the objection filed by the petitioner and after making adjustment of the amount deposited by the petitioner, will pass a fresh reasoned order in accordance with law.

The petitioner, if so advised, may file an additional objection within a period of three weeks from today.

In the result, this writ application stands allowed to the aforementioned extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2017
Transmission Date	NA

