

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3522 of 2017**

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Birendra Prasad, Son of Shri Sharda Prasad, resident of Village- Gamhariya Kala,  
P.S.- Darpa, District- East Champaran, Proprietor of M/s Ma Durga Rice Mill,  
Adapur, East Champaran.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, New Secretariat, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Corporations Limited, Patna.
3. The District Manager, State Food Corporation Limited, East Champaran.
4. The District Magistrate, East Champaran at Motihari.
5. The Certificate Officer, East Champaran at Motihari.

.... .... Respondent/s

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**Appearance :**

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|----------------------|---|-----------------------------------------------|
| For the Petitioner/s | : | Mr. Anuj Kumar, Adv.<br>Mr. K.M. Mishra, Adv. |
| For the State        | : | Mr. S. Raza Ahmad, AAG-5                      |
| For the BSFC         | : | Mr. Shailendra Kr. Singh, Adv.                |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 01-08-2017**

Heard learned counsel for the petitioner and counsel for the  
  
State.

In the present case, the petitioner is challenging the order  
dated 10.9.2016 passed in Certificate Case No. 37/2014-15, whereby  
and whereunder, the authority, under the Bihar & Orissa Public  
Demand Recovery Act, has rejected the claim of the petitioner.

Earlier the petitioner had moved before this Court in  
C.W.J.C. No. 12299 of 2015, there the petitioner had challenged the  
order of distress warrant issued against he petitioner for recovery of  
Rs. 77,59,525.93/- in the aforesaid certificate case, the Court



remanded back the matter and directed the Certificate Officer, East Champaran, Motihari to pass a fresh order and dispose of the same. In pursuance thereof, the authority has passed the reasoned order.

Learned counsel for the petitioner has submitted that the authority has not dealt with the issue of non-deposit of proper court fee and neither requisition nor the certificate was proper, is per-se illegal and, as such, the entire certificate proceeding vitiates. Learned counsel for the petitioner has also disputed the amount.

These are the mixed questions of facts and law. The petitioner may raise all the points before the appellate authority. If the petitioner files an appeal as per Section 60 of the Bihar and Orissa Public Demands Recovery Act within a period of three weeks from today along with the stay petition, till the disposal of the stay petition, no coercive action shall be taken against the petitioner.

If the petitioner does not file an appeal before the appellate authority within a period of three weeks from today as aforesaid, the authority will be at liberty to realize the amount from the petitioner.

**(Shivaji Pandey, J)**

Rishi/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 04.08.2017 |
| Transmission Date | NA         |

