

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9296 of 2017

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Babajee Rice Mill Through Its Proprietor Amit Kumar Roy S/o Sri Shiv Kumar Roy Resident of Village- Baseya, P.O.- Jamuaon, P.S.- Agiaon Bazar, District- Bhojpur(Ara).

.... Petitioner/s

Versus

1. The Bihar State Food & Civil Supplies Corporation Ltd. through its Managing Director, Sone Bhawan, Birchand Patel Path, Patna.
2. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd. Sone Bhawan, Birchand Patel Path, Patna.
3. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd. Bhojpur, Ara.
4. The State of Bihar through D.M. Arrah (Bhojpur).
5. The Certificate Officer, Bhojpur, Arrah.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv.
For the BSFC	:	Mr. Shailendra Kumar Singh, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal- SC4
		Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-08-2017

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

In the present case, the petitioner is challenging the requisition and certificate as well as order dated 2.6.2017 passed in Certificate Case No. 2/2016-17.

It appears that a proceeding under the Bihar and Orissa Public Demand Recovery Act has been initiated for recovery of Rs 50,79,591/- as the petitioner, being a miller, has not deposited the CMR of the same amount but, it is unthinkable the manner the



requisition and certificate has been issued by the authority concerned as it appears that the requisition and certificate bears the signature of the District Manager at the bottom but all the columns are blank, does not show satisfaction of the District Manager or of Requisitioning Authority which is sine qua non before initiation of certificate proceeding. It does not stand to the reason when the officer issues such a certificate, he must see proper compliance of the provision of the Act. In the present case, before putting their signature, either they have closed their eyes or purposely they have done in connivance with the petitioner.

This Court is compelled to record aforesaid this observation, on account of the fact, that this Court is of the view that, a normal person in normal circumstances will not behave in such a manner and will not issue such requisition and issue a certificate without application of mind.

The Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna and the Managing Director, Bihar State Food & Civil Supplies Corporation Limited both must issue circular giving strict instruction to their officials whenever requisition is given or certificate is issued by the respective authorities, they must see that there should be proper compliance, if they do not follow it, it should be treated to be an act of misconduct



on their part.

As the certificate as well as the order dated 2.6.2017 are completely not sustainable, both are set aside.

The authority, if so desires, may issue a fresh requisition and the District Magistrate, Bhojpur, Arrah will also issue a certificate in accordance with law within a period of three weeks from the date of receipt/production of a copy of this order.

With the aforementioned observation, this application is disposed of.

Let this order be communicated to the Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.08.2017
Transmission Date	NA

