

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1267 of 2017

IN

Civil Writ Jurisdiction Case No. 12267 of 2017

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Yogendra Kumar, son of Late Raj Bansi Sah, resident of Bishambharpur (Meharua), P.S.-Bhairavganj, District-West Champaran, Bettiah, Proprietor Pooja Rice Mill, Industrial Area, Kumarbag, West Champaran

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna
4. The District Magistrate, West Champaran, Bettiah
5. The Superintendent of Police, West Champaran, Bettiah
6. The Certificate Officer, West Champaran, Bettiah
7. The District Magistrate, Bihar State Food and Civil Supplies Corporation Limited, West Champaran, Bettiah

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shashi Bhushan Kumar, Advocate Mrs. Arti Kumari, Advocate
For the State	:	Mr. S. Raja Ahmad, AAG-5 Mr. Vishwambhar Prasad, AC to AAG-5
For B.S.F.C.	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 06-10-2017

Seeking exception to an order dated 29.08.2017 passed in C.W.J.C. No. 12267 of 2017, this appeal has been filed under Clause-10 of the Letters Patent.

Challenging the certification proceedings initiated against the petitioner, the writ petition in question was filed and when the matter came up for consideration before the Writ Court



on 29.08.2017, a statement was made, even though incorrectly that the issue has been covered by the judgment rendered on 31.07.2017 in C.W.J.C. No. 11039 of 2016. In C.W.J.C. No. 11039 of 2016, the matter was remitted back to the Certificate Officer for considering the objection and taking a decision, in accordance with law. However, in the present writ petition, the facts remain that the certification proceedings initiated by the respondents already stood closed on 16.07.2015, as is evident from page 37 of the paper book in the writ petition.

That being so, an error has been committed in remitting the matter back to the Certificate Officer in pursuance to the earlier order passed in C.W.J.C. No. 11039 of 2016 on 31.07.2017.

Taking note of these factors, we are of the considered view that now if the respondents want to make any recovery from the petitioner after disposal of Certificate Case No. 19/2013-14 on 16.07.2015, the respondents may either file an appeal against the order or initiate proceedings, in accordance with law, as may be permissible for recovery of any amount due and the appellant will have right to adjudicate such recovery and raise objections as may be available to him. In case, the certificate proceedings filed by the respondents have been culminated and there is no order of the Appellate Authority and till proceedings are not taken, in accordance



with law for adjudicating the claim, no coercive steps or First Information Report shall be lodged against the petitioner.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09/10/2017
Transmission Date	NA

