

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1181 of 2017

Arising out of

C.W.J.C. 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.

... .. Appellant/s

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.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sumeet Kumar Singh, Advocate
For the State	:	Mr. S. Raza Ahmad, AAG-5
		Mr. Md. Kamil Akhtar, A.C. to AAG-5
For the BSFC	:	Mr. Nirmal Kumar, 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 : 01-11-2017



Keeping in view the order dated 10.10.2017 passed by us in similar circumstances in L.P.A. No. 1373 of 2017 (Ram Niwas Sharma Vs. The Food and Consumer Protection Department & Ors.) and keeping in view the judgments in the case of **Nageshwar Prasad Singh Vs. Rai Bahadur Kashinath Singh- 1958 BLJR 820** and the law laid down by the Apex Court in the case of **Budha Singh Vs. The State of Bihar & Ors.- AIR 1981 Pat. 149**, we are of the considered view that until and unless the amount in question, which is being recovered on the basis of an agreement, is not adjudicated by a statutory competent authority, the Certification Officer will not have jurisdiction to issue a certificate under the statutory provision, namely, the Bihar and Orissa Public Demands Recovery Act, 1914. This is the view taken by us in the case of **Ram Niwas Sharma** (supra) and we see no reason to take a different view in this case also, as the Certification Officer has issued certificate without considering the legal principles laid down in the case of **Nageshwar Prasad Singh** and **Budha Singh** (supra).

In view of the above, we allow this appeal, quash the order dated 27.07.2017 passed by the learned Writ Court in C.W.J.C. No. 10148 of 2017 and the order dated 05.02.2016



passed by the Certification Officer, restore Certification Case No. 40 (food) of 2014-15 to its original file and direct that the appellant shall appear before the Certification Officer along with a certified copy of this order on 30th of November, 2017, file all his objections and the Certification Officer shall proceed to decide the issue afresh in accordance with law after taking note of the jurisdiction available to the Certification Officer and the principles laid down in the cases referred to hereinabove.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	03.11.2017.
Transmission Date	

