

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16858 of 2016

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Ashok Kumar Singh Son of Late Samoat Singh, Proprietor of M/s Singh Rice Mill
resident of Village- Tendua Harkesh, P.S.- Obra, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, District- Aurangabad.
2. The Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
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, Aurangabad, District- Aurangabad.
5. The District Certificate Officer, Aurangabad, District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.
For the State : Mr. Upendra Pratap Singh, AC to SC-4
For the Corporation : Mr. Aditya Prakash Sahay, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-04-2017

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

In this case, the petitioner is challenging the action of
the Certificate Officer, Aurangabad, submitted that he, without
disposing of the objection filed by the petitioner, has issued the
warrant of arrest.

The petitioner has earlier approached this Court in
CWJC No. 13244 of 2015 for quashing the entire certificate
proceeding, challenging the notice under Section 7 of the Bihar and



Orissa Public Demand Recovery Act on the ground that the same does not meet the statutory requirements and submitted that the requisition suffers from inherent illegality and, this Court, vide order dated 8.9.2015, remanded back the matter. The relevant portion of the aforesaid order reads as follows:-

"6. In the above circumstances, the certificate issued in Form No.1 signed by the District Manager of the BSFC and the Certificate Officer in the manner aforesaid is held to be invalid and is hereby quashed along with the notice under Section 7 of the Act issued in pursuance thereof. The matter is remitted to the Certificate Officer, Aurangabad for issuance of a fresh certificate as well as the notice under Section 7 of the Act and thereafter to proceed in the matter in accordance with law."

Thereafter, a fresh certificate was issued to the petitioner. The petitioner filed an objection under Section 9 of the P.D.R. Act. Learned counsel for the petitioner submits that without deliberating the objection of the petitioner, the warrant of arrest has been issued.

Learned counsel for the Corporation has drawn attention of this Court towards the order dated 17.5.2016, from perusal of that order, it appears that the counsel, who was appearing



for the petitioner, made commitment to deposit of the certificate amount and, on that basis, learned counsel for the Corporation submits that in the event of his commitment to pay the amount, there was no occasion for the Certificate Officer to go and discuss the merit of the case. He has further submitted in the entire writ application, the petitioner has nowhere made such a statement that the Certificate Officer has wrongly recorded in the order about the commitment.

Learned counsel for the petitioner submits that in fact no such commitment has been made before the Certificate Officer. In view of the fact that when no such statement has been made in the writ application nor any certificate from the advocate concerned has been attached that he has not made such a commitment before the Certificate Officer, it is very difficult to infer that the submission of the petitioner is correct.

As the petitioner is of the view that wrongly the order has been recorded, he may take action as is available in law.

With the aforementioned observation, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.04.2017
Transmission Date	NA

