

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9904 of 2017

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M/s Kunal Rice Mills through its proprietor Madan Yadav son of Ramdeo Yadav
Resident of village - Ahiraulia, P.S. - Ramgarhwa, District - East Champaran at
Motihari.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, East Champaran, Motihari.
3. The District Certificate Officer, East Champaran at Motihari.
4. The Bihar State Food & Civil Supplies Corporation Ltd. through its Managing Director, having its office at Sone Bhawan, Birchand Patel Path, Patna - 8000001.
5. The District Manager State Food & Civil Supplies Corporation Ltd. District Office, East Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya, Adv.
For the State : Mr. S. Raza Ahmad, AAG-5
Mr. Alok Ranjan, AC to AAG-5
For the BSFC : Mr. Shailendra Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-10-2017

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order 13.5.2017
passed by the District Certificate Officer, East Champaran, Motihari in
Certificate Case No. 16 of 2014-15, whereby and whereunder, the objection
of the petitioner has been rejected.

Before dealing with the order passed by the Certificate
Officer, it will be relevant to record certain facts which is necessary for
disposal of the present case as the proceeding of certificate has been issued
bearing Certificate Case No. 16 of 2014-15 for realization of an amount of



Rs. 27,25,151/-. The petitioner is running the rice mill in the name and style of M/s Kunal Rice Mills, Ahiraulia. The petitioner and the B.S.F.C. have entered into an agreement with a condition that the rice mill, the petitioner, will supply 67% rice of the paddy which he will be received for milling. The petitioner was given paddy and the proportionate CMR at the rate of 67% comes to 1742 quintal of rice which the petitioner failed to supply, led to initiation of certificate proceeding. The petitioner challenged the proceeding in C.W.J.C. No. 13799 of 2015 wherein the petitioner has taken plea that the procedure adopted for initiation of certificate proceeding suffers from inherent defect as has been enunciated in the case of Hari Prasad Agarwalla Vs. The State of Bihar & Ors. Reported in 1975 BLJR 666, in the case of Jai Prakash Dwivedi Vs. The State of Bihar & Ors. Reported in 1998 (2) PLJR 498 and in the case of Satya Narain Jhunjhunwala Vs. The State of Bihar & Ors. reported in 1996 (2) PLJR 698.

This Court did not quash the proceeding but, has given direction to the Certificate Officer, while disposing of the objection filed under Section 9 by the petitioner, will consider the applicability of those judgments and its consequential effect. As aforesaid, three judgments, mentioned herein above, wherein this Court has taken a view that if the defects are inherent while starting the proceeding, the proceeding itself will vitiate but, the Certificate Officer, though he has taken note of the objection filed by the petitioner under Section 9 but, has failed to consider the applicability of judgments that has been decided by this Court in the



aforesaid three judgments and its fall out. The Certificate Officer has neither dealt with nor discussed the judgments as mentioned by this court herein above.

In that view of the matter, the impugned order dated 13.5.2017 is quashed and the matter is remanded back to the Certificate Officer, East Champaran, Motihari who will consider the applicability of the principle enunciated in the aforesaid three judgments in the present case and its consequences.

This Court is not giving any opinion on the merit of the case but, directs the Certificate Officer to examine applicability of the aforesaid judgments and take a decision within a period of two months from the date of receipt/production of a copy of this order.

For convenience, the petitioner is directed to file a afresh objection which will be treated to be a supplementary objection and whatever grounds and points are taken by the petitioner will be gone into by the Certificate Officer and will pass orders in accordance with law.

With the aforementioned observations and direction, this writ application is allowed to the extent indicated above.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.11.2017
Transmission Date	NA

