

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13799 of 2015

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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 - 800001
5. The District Manager, Bihar 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 BSFC	:	Mr. Shailendra Kumar Singh, Adv.
For the State	:	Mrs. Archana Minakshi, GP-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-02-2017

Heard learned counsel for the parties.

Learned counsel for the petitioner is challenging the initiation of proceeding as well as order dated 15.4.2015 as he has shown to this Court that the Certificate Office, on the same day, has passed two orders which are in compatible to each other.

It appears that the petitioner is a proprietorship firm, running a rice mill, was provided paddy and was to return the proportionate M.C.R. which he failed to do so. In pursuance thereof, a demand notice of Rs. 27,25,151/- was issued and, for that, when the



petitioner failed to pay the demand amount, a requisition was sent by the District Manager.

Learned counsel for the petitioner submits that the entire proceeding vitiates as the requisition, which has been sent by the District Manager, itself does not mention his satisfaction with regard to amount to be recovered from the petitioner which is mandatorily required in view of the Rule as well as form has been prescribed in what manner the requisition has to be sent and, in absence of satisfaction on verification, the entire proceeding is a non-est proceeding, cannot be proceeded in the eye of law, inasmuch as, he has also submitted that the Certificate Officer, without considering the objection what he had raised before him, has rejected the same which shows that the Certificate Officer has not applied his mind as if he was not discharging a quasi judicial function rather acting as an administrative officer. He has further submitted that the Certificate Officer has acted arbitrarily and illegally in passing the two orders on the same day which cannot be sustained in law. In support of the submission, learned counsel for the petitioner has placed reliance on the judgments 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 Jhunhunwala Vs. The State of Bihar & Ors.* reported in 1996



(2) *PLJR 698*. All the aforesaid three judgments in one tenor have arrived to a conclusion that if the requisition is not in terms of Rule and the format prescribed, the entire proceeding itself vitiates.

Learned counsel for the Corporation has fairly accepted that the order passed by the Certificate Officer cannot be supported as it appears that the Certificate Officer, without considering the objection of the petitioner, has passed the order.

Learned counsel for the State too failed to support the order passed by the Certificate Officer.

This Court could have at this stage declared the entire proceeding to be bad in law in view of the aforesaid three judgments but as because the petitioner has already filed an objection under Section 9 of the Public Demand Recovery Act before the Certificate Officer where he has given the details of facts and mentioned grounds, the Certificate Officer ought to have gone into the objections raised by the petitioner but, it appears that he has not applied his mind and has passed the cryptic order in a fancy and capricious cannot be allowed to sustain.

In that view of the matter, both the orders dated 15.4.2015 are quashed. The matter is remanded back to the Certificate Officer who will consider the judgments that have been mentioned herein above and will take a decision in accordance with law within a



period of three months from the date of receipt/production of a copy of this order.

In the meantime, no coercive step shall be taken against the petitioner.

In the result, this application stands allowed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.02.2017
Transmission Date	

