

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3616 of 2015

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Dhirendra Kumar Singh, Son of Sri Shanker Dayal Singh, Proprietor M/S Kumar Rice Mill, Resident of village - Chotaka Bahera, Police Station - Amas, District - Gaya

.... Petitioner

Versus

1. The State of Bihar
2. District Magistrate, Gaya
3. Sub - Divisional Magistrate, Sherghat, Gaya
4. District Supply officer, Gaya
5. Assistant Manager, State Food Corporation, Sherghati, Gaya

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Jitendra Prasad Singh, Adv.
For the B.S.F.C. : Mr. Shailendra Kumar Singh, Adv.
For the State : Mr. Ranjan Kumar, A.C. to G.A.-12

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-01-2017

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

2. The petitioner is the Proprietor of M/S Kumar Rice Mill. There was an agreement between the petitioner and the District Magistrate of Bihar State Food and Civil Supply Corporation (hereinafter mentioned as “Corporation”) for milling of the paddy. At the same time, the petitioner was to deliver the proportionate C.M.R. to the Corporation. The Corporation has supplied 23946.70 quintal of paddy and the petitioner was to return 16,044.29 quintal of C.M.R. of Rs.3,47,44,872.65/- along with gunny bags, total amount comes to Rs.3,48,44,72.65/-, but the



petitioner did not return the C.M.R. amount, which compelled the Corporation to take action against the petitioner for realization of the aforesaid dues amount as well as for his act of criminality an F.I.R. has been lodged, making allegation that the petitioner has illegally swallowed the huge amount of the Corporation. The District Magistrate, Gaya, who is procurement head of the paddy, has taken coercive action against the petitioner by sealing the mill premises and has also requested the Bank to seize the operation of the account.

3. Learned counsel for the petitioner submits that it is very unfortunate that not only the account of the petitioner has been seized, but the District Magistrate has illegally also requested the Bank to seize the account of his father, whereas the father of the petitioner has nothing to do with the present petitioner and for the act of the petitioner, his father should not suffer. It has further been submitted that already there is a Bank Guarantee of Rs.7,15,000,00/-, in such view of the matter, there is no justification for the District Magistrate to take such an action of seizing the bank account as well as sealing the premises of the mill.

4. Learned counsel for the Corporation has disputed the statement of the petitioner with respect to the sealing of the premises of the mill by placing reliance on the report of the S.D.O.,



but the report of the S.D.O. does not disclose that after verification what he has done, the report only gives glimpse what he has found during the inspection of the Godown of the petitioner.

5. Learned counsel for the petitioner has heavily placed reliance on the agreement, which reflects that the petitioner has furnished the Bank Guarantee of Rs.7,15,000,00/-, on that basis he is claiming that the action of the Corporation as well as the District Magistrate is *per se* illegal and not suitable in law.

6. Learned counsel for the Corporation has fairly submits that let the petitioner file a proper application / representation before the Managing Director of the Corporation, who will look into the grievance of the petitioner as the basic claim is with respect to the reconciliation of the amount. If it is found that the petitioner in fact has furnished the Bank Guarantee of the aforesaid amount, then certainly after adjusting of Rs.3,48,44.872.65/- rest amount would be returned to the petitioner.

7. In view of the fair stand of the Corporation, let the petitioner file a proper application/representation before the Managing Director, Bihar State Food and Civil Supply Corporation, Patna, giving details of the entire facts involved in the present case,



within a period of three weeks from today. If such an application/representation is filed, and after due deliberation, if it is found that the petitioner, in fact has furnished the Bank Guarantee of the aforesaid amount, after necessary reconciliation of the amount, the respondent authority would return the rest amount without unnecessary delay.

8. In the meantime, the order of seizing the bank account of the father of the petitioner is hereby quashed.

9. So far as the seizing of the Bank account of the petitioner is concerned, he will be allowed to operate his bank account on condition that he always keep the level of money in his account as standing as on today.

10. It is clarified that if the petitioner would not file proper application/representation before the Managing Director of the Corporation within three weeks from today, the interim relief granted to the petitioner by this order will be treated to have been withdrawn. It is further clarified that if it is found *vice versa* the petitioner is liable to pay the amount to the Corporation, then the petitioner will be obliged to pay the same, in refusal to pay the amount, the Corporation is at the liberty to take legal action against



the petitioner in accordance with law.

11. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	26.01.2017
Transmission Date	

