

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10267 of 2015

=====

1. Manikant Kumar S/o Dilip Shav Resident of village - Basantpur, P.S. Parasbigha, District - Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Food and Consumer Protection Department, Govt. of Bihar, Patna
2. The District Magistrate, Jehanabad
3. The Sub-Divisional Officer, Jehanabad
4. The Bihar State Food and Civil Supplies Corporation Ltd. through its Chairman, Patna
5. The District Manager, State Food Corporation, Jehanabad
6. The Additional Collector Cum Certificate Officer, Jehanabad
7. The Food Corporation of India, through its Chairman Cum Managing Director, New Delhi

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Manoj Kumar
For the State : Mr. Ajay, GA 5
For the FCI : Mr. Prabhakar Tekriwal
For the BSFC : Mr. Shailendra Kumar Singh.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 05-07-2017

Heard the parties.

In the present writ petition, petitioner is challenging the order dated 8.4.2015 passed by the Additional Collector-cum-Certificate Officer, Jehanabad in Certificate Case No.12 of 2014-15 by which he has ignored the objection of the petitioner and directed him to pay the amount as well as for quashing the order dated 14.7.2016.

The basic premise of the argument of the petitioner is that the Certificate Officer without considering the objection has arrived to a conclusion of being liable to pay the said amount and issued body warrant.



Learned counsel for the petitioner has raised a point that in the objection he has taken a plea that neither the requisition nor certificate has been prepared in terms of the Public Demands Recovery Act. In absence of the proper requisition and certificate initiation of certificate proceeding is bad in law. He has stated that it is duty of the Requisitioning Authority and Certificate Officer to fill up every column of certificate and requisition which they have failed to do so. In support of his contention he has placed reliance in the case of Nageshwar Prasad Singh v. Rai Bahadur Kashinath Singh and others, reported in 1958 BLJR 820 where this Court has said that as it is summary proceeding and certificate has status of decree, the Certificate Officer is required to fill up every column with proper statement, there it has been held that if columns were not filled up in proper manner entire proceeding is vitiated. If a thing has to be done in particular manner, that should be done in that manner alone, not otherwise. In that case it has been held compliance should be substantial in nature whereas learned counsel for the BSFC has submitted that it is not mandatorily required to provide requisition to the petitioner but the certificate has been given to the petitioner inasmuch the certificate has been properly prepared, every column has been filled up with substantial information mentioned therein. There is no any lacuna in the certificate which would made proceeding bad in law. He further submits that the



judgment which has been relied upon by the petitioner all conditions mentioned in the judgment is satisfied. It has further been argued that objection of the petitioner has been dealt with and has been disposed of the petitioner should exhaust remedy of appeal. The petitioner instead of approaching this Court should approach before the appellate Court.

Having considered the rival contentions of the parties it is well known principle of law that certificate proceeding is summary proceeding. The Certificate Officer by order dated 8.4.2015 has mentioned about consideration of the objection but on perusal of the same it appears that he has only mentioned that he has perused the objection did not find merit but while rejecting, has not discussed, passed order without assigning reasons mentioned therein . The Certificate Officer while considering objection under PDR Act discharge the duty of quasi judicial authority and the order must show application of his mind with respect to objection raised by the parties. Admittedly mere statement of perusal of the objection, it cannot be said to be proper consideration at all. There must be a reason while refusing or accepting the petition which is completely lacking. It has been decided by the Hon'ble Supreme Court in the case of Chairman and Managing Director, United Commercial Bank and others v. P.C. Kakkar, reported in (2003)4 SCC 364 where Hon'ble Supreme Court held in failure to record a reason vitiates the



order as it will be violative of principle of natural justice as the reason must be there in each order. Admittedly in this case Certificate Officer has disposed of the objection without proper reason.

In such view of the matter, the orders dated 15.4.2015 set and 14.7.2016 are set aside. The Certificate Officer is directed to consider the objection and decide the same assigning his own reason and pass order in accordance with law. The Certificate Officer will complete the entire process within a period of three months from the date of receipt of a copy of this order. If the petitioner would fail to cooperate with the proceeding the Certificate Officer will decide the case ex-parte. The Certificate Officer will not issue body warrant till adjudication of objection raised by the petitioner.

Accordingly this writ petition is allowed.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.7.2017
Transmission Date	NA

