

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11258 of 2016

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Anand Kumar Singh, Son of Sheo Prasad Singh, Proprietor M/s Balaji Rice Mill
Bajitpur Bihta P.S.- Bihta, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan,
5th Floor, Birchand Patel Path, Patna through its Managing Director.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation
Limited, Sone Bhawan, 5th Floor Birchand Patel Path, Patna
4. The District Manager, Bihar State Food and Civil Supplies Corporation
Limited, Jehanabad.
5. The Collector-cum-District Magistrate, Patna.
6. The Additional District Magistrate (Supply), Patna Collectorate.
7. The District Certificate Officer, Arwal (Jehanabad).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha, Adv.
For the State : Mr. Mukund Mohan Jha, A.C. to G.P.-27
For the B.S.F.C. : Mr. Aditya Prakash Sahay, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-02-2017

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Bihar State Food
and Civil Supplies Corporation.

2. This Court vide order dated 26.07.2017 has directed to
show cause for violating the order dated 15.09.2015 passed in
C.W.J.C. No.14220 of 2015 as has been claimed that without



disposal of the objection petition filed by the petitioner under Section 9 of the Bihar & Orrisa Public Demand Recovery Act, the Certificate Officer has issued the Body Warrant.

3. A show cause has been filed, wherein statement has been made that the petitioner has initially filed an objection under Section 9 of the Act on 19.05.2015 and the said objection has finally been disposed of on 13.06.2016, but on the same day the petitioner has again filed an application giving colour of objection petition under Section 9 of the Act. Subsequent Objection petition has not been disposed of.

4. Learned counsel for the petitioner submits that merely the Certificate Officer has mentioned the objection petition but on merit he has not dealt with the case of the petitioner as on perusal of the objection which has been filed by the petitioner it appears that it is a sketchy objection not giving the details of the fact, rather subsequent objection petition is giving entire details of the fact. As the Certificate Officer has not dealt with the objection petition which has been filed by the petitioner on 19.05.2015, in such circumstance he cannot be proceeded under the Contempt proceeding.



5. Be that as it may, the petitioner submits that the Certificate Officer has not adjusted the amount of money which he is entitled under milling and handling charges, straightway directed to deposit the amount on the basis of the statement of the representative of the Bihar State Food and Civil Supplies Corporation. It has further been submitted that other family members are also engaged in the work of milling and handling of the paddy supplied by the Corporation and they have requested that the outstanding dues whatever standing against the petitioner should be adjusted from their amount of bill which they are entitled.

6. This aspect has not been taken into consideration by the Certificate Officer. The prayer has been made by the petitioner is for reconciliation of the amount as the letter of the Managing Director vide letter No.604 dated 17.5.2015 stipulates that the miller would first deposit the entire C.M.R. quantity of the rice and handing and milling bill will be adjusted later on, on that ground the amount which the petitioner is entitled against the milling and handling has not been adjusted and straightway requisition has been made for realizing of the outstanding dues.

7. If the other associates have filed such application on affidavit that whatever amount they are entitled should be adjusted



against outstanding dues of the petitioner. In such circumstance, the Corporation is obliged to reconcile the amount and thereafter whatever are outstanding dues left against the petitioner can only be recovered.

8. Learned counsel for the Corporation submits that a Three Men Committee has been constituted for the purposes of settling the amount of the miller.

9. In such view of the matter, let the case of the petitioner be referred to the Three Men Committee who will examine the case of the petitioner and take decision in accordance with law. After reconciliation / adjustment of the amount, if the petitioner would be liable to pay the amount, then certainly in that circumstance, the petitioner will be obliged to make payment without delay preferably within a period of 60 days from the date of the decision of the Three Men Committee, failing which, the Corporation will have a liberty to resort legal avenue in accordance with law. After adjustment of the amount, if it is found that it is the petitioner who is entitled to amount, then the Corporation shall return the amount within the same period.

10. Till the decision of the Three Men Committee, the



proceeding before the Certificate Officer shall be kept in abeyance.

If the decision of the Three Men Committee goes against the petitioner then the Certificate Officer will be at liberty to take appropriate action with the modified amount against the petitioner.

11. The petitioner is directed to approach the authority concerned within a period of three weeks from today. In failure, the interim order which has been passed in favour of the petitioner will be treated to have been withdrawn.

12. 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	04.03.2017
Transmission Date	N/A.

