

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8971 of 2017

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Damodar Agarawal, S/o Late Ram Pratap Agarawal, Proprietor of M/s Sri Balaji
Mini Arwa Rice, respondent of Village Kara, P.S. Obra, District- Aurangabad.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary Food & Civil Supply Corporation Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad, District- Aurangabad.
3. The Bihar State Food Civil Supplies Corporation Limited through its M.D. Bihar at Patna.
4. The District Manager, Bihar State Food Civil Supplies Corporation Limited, Aurangabad, Dist.- Aurangabad.
5. The Certificate Officer, District- Aurangabad.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Brij Bihari Tiwary, Adv.
For the State : Mr. Upendra Pratap Singh, A.C. to .S.C.-4
For the Corporation : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-07-2017

Heard learned counsel appearing for the respective parties.

2. In this case, the petitioner is challenging the order dated 04.03.2016, whereby the petitioner has been directed to deposit the dues amount. The petitioner is also challenging the order of warrant of arrest dated 15.12.2016.

3. The petitioner has entered into an agreement with the



Bihar State Food and Civil Supplies Corporation Limited for milling the paddy and to return the proportionate amount of the C.M.R. When the petitioner has failed to deposit the C.M.R. a certificate proceeding vide Case No.43 of 2014-16 for an amount of Rs.47,35,650/- was initiated against the petitioner and the notice was issued to the petitioner. Whereupon, the petitioner has filed an objection, which was replied by the Corporation, but learned counsel for the petitioner submits that the petitioner has not received the reply. But, the order-sheet dated 14.03.2016 makes it clear that the copy of the reply filed by the B.S.F.C. was handed over to the petitioner. So the stand of the petitioner that the copy of reply was not given to him is not established.

Second point has been taken that the petitioner has altogether deposited Rs.11,50,000/- but the same has not been properly adjusted against the demand amount.

Learned counsel for the Corporation has disputed the argument of learned counsel for the petitioner and drawn the attention of this Court to the order dated 21.04.2016, from where it appears that Rs.8,50,000/- has been adjusted, but the record shows that he paid Rs.11,50,000/-, in such circumstance, the Certificate Officer, is obliged to adjust rest amount of Rs.3,00,000/- against the



outstanding dues. From the order dated 04.03.2016, it appears that the Certificate Officer has called upon the petitioner to produce the record of milling, transporting and handling charges, but the petitioner did not produce the same. If the petitioner did not produce the record to substantiate his claim for adjustment of milling, loading and transporting charges, in such circumstance, he cannot claim that the Certificate Officer has failed to adjust the amount for milling, handling and transporting.

Be that as it may, let the petitioner file supplementary objection, attaching his bill, which is claiming to be adjusted. If he does so, the Certificate Officer will be obliged to hand over the copy of the reply and also verify the authenticity of the record produced by the petitioner and after proper verification if the Certificate Officer arrives to a finding in favour of petitioner, the amount would be adjusted against the demand amount. The petitioner will be obliged to make payment of rest amount, if any, in three installments within a period of six months from today. The first installment will be paid by the petitioner within two months from today and rest two installments will be made in the same manner i.e. after interval of two months. If the petitioner would fail to liquidate the outstanding dues, which he will be liable to pay, in such circumstance, the Certificate Officer will be at liberty to take action



against the petitioner. If the petitioner fails to produce the record along with chalan, the Certificate Officer will not make any adjustment.

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	07.08.2017
Transmission Date	N/A.

