IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11789 of 2017

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1. Manoj Kumar S/o Rajnath Sah, Prop. of M/SMaa Vindhyawasini Galla Bhandar Rice Mill, R/o Vill-Keshwan, P.S.-Piro, Dist-Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Food and Civil Supply Govt. of BIhar, Patna.
2. The Managing Director, Bihar State Food & Civil Supplies Corporation, Patna.
3. The Distrct Magistrate, Bhojpur, Ara.
4. The District Manager, BIhar State Food Corporation, Bhojpur.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Jai Prakash Singh, Adv.
For BSFC Mr. Harish Kumar, Adv.
For the Respondent/s : Mr. Maruth Nath Roy, AC to SC-4
Mr. Arvind Ujjwal -Sc4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 11-10-2017 Heard the learned counsel for the petitioner.

In this case, the petitioner is challenging the initiation of the proceeding under the PDR Act vide Certificate Case No. 41 of 2014-15. Petitioner, who is a miller, had entered into an agreement with the BSFC with a condition that he will supply 67% of the rice against the paddy which he received by them, if the petitioner fails to deposit the CMR, the price of same along with interest will be recovered from him by initiating certificate proceeding.

In the certificate case petitioner filed objection but his objection has been rejected and bailable warrant has been issued. Petitioner has also challenged the statement recorded in the

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order dated 05.03.2016 that he had never given an undertaking for deposit of Rs.20,000/- in monthly installment and liquidate the outstanding dues whereafter he had filed an objection under Section 9 of the PDR Act.

From the impugned order dated 02.06.2017 it appears that the case was to be taken up on 04.11.2016 but on that day the proceeding was not conducted and suddenly on 02.06.2017 it has been recorded that the objection is rejected and bailable warrant is issued.

A counter affidavit has been filed on behalf of the BSFC stating that the petitioner has not deposited the outstanding dues and therefore, his objection has been rejected and bailable warrant has been issued.

Before passing further order and issuing warrant of arrest, when an objection is filed, it is expected from the Certificate Officer to dispose of the objection and only thereafter, call for a coercive action but in the present case, without disposing of the objection with a reasoned order, coercive order has been passed against the petitioner. When an objection was raised by the petitioner, the Certificate Officer was required to pass a reasoned order under Section 10 of the PDR Act and the cryptic order cannot be sustained.

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Accordingly, the order dated 02.06.2017 by which the objection of the petitioner dated 04.10.2016 was rejected as well as bailable warrant was issued is set aside.

The Certificate Officer is directed to consider the objection petition of the petitioner.

In the meantime, the order of bailable warrant shall be put in abeyance.

The learned counsel for the petitioner submits that the petitioner will deposit the amount of outstanding dues after due consideration.

The application is disposed of.

Learned counsel for the BSFC is directed to deposit deficit stamp within a period of four weeks.

(Shivaji Pandey, J)

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