

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4688 of 2016

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Bharat Purbey son of Shri Shambhoo Pandey, Resident of Village and P.O. Madhwapur, P.S. Madhwapur, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna
2. District Magistrate, Madhubani
3. District Manager, Bihar State Food and Civil Supply Corporation, Madhubani
4. District Certificate Officer-cum-Senior Additional Collector, Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Adv.
For the Respondent/s : Mr. Sanjay Pandey, GP21
For the BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-09-2017

Heard learned counsel for the parties.

In this case the petitioner is challenging the order dated 30.6.2015 by which a body warrant has been issued against the petitioner as he could not deposit the outstanding dues lying against him.

As per the claim of the petitioner, he has entered into an agreement, has taken paddy for milling, in pursuance thereof, he received paddy but, could not return the C.M.R. in terms of the contract, whereupon, P.D.R. case has been lodged by the B.S.F.C. which has been registered as Certificate Case No. 11 of 2014-15 making a demand of Rs.58,38,748.05/-.

A simple prayer has been made by the counsel for the petitioner that though the objection is pending which the officer has not decided but the Authority issued body warrant against the petitioner. This Court fails to



understand when the objection has been filed under Section 9, the Authority was required to dispose of the same, only thereafter, he could have passed the order against the petitioner rather it has been recorded that the petitioner has not disputed the demand amount and failed to deposit, which the petitioner has denied to have been admitted. The Certificate Officer, before issuing the body warrant, was required to dispose of the objection by passing a reasoned order and should have granted time to deposit the amount and if the petitioner fails to deposit within that time, in that circumstances only, the Certificate Officer would be at liberty to take any action even coercive action in accordance with law.

In that view of the matter, the order dated 30.6.2015 issuing body warrant against the petitioner is quashed. Let the Authority should pass a reasoned order in accordance with law. The Certificate Officer, Madhubani is directed to decide the matter within a period of two months from the date of receipt/production of a copy of this order. The petitioner is also directed to cooperate in the disposal of the proceeding.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2017
Transmission Date	NA

