

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11454 of 2017

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Shambhu Kumar, son of Ram Charitra Sah, Proprietor of M/s Shambhu Rice Mill,
Resident of Village- Bagha, Ward No.-24, P.S.- Lohiyanagar, District- Begusarai.

.... Petitioner/s

Versus

1. The Food and Consumer Protection Department Through The Principal Secretary, Bihar at Patna.
2. The State of Bihar through District Magistrate, District- Begusarai.
3. The Bihar State Food and Civil Supplies Corporation Limited through its M.D., Bihar at Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Begusarai, District- Begusarai.
5. The District Certificate Officer, Begusarai, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv.
For the BSFC : Mr. Nirmal Kumar, Adv.
For the State : Mr. Sanjay Kr. Giri, GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-08-2017

Heard learned counsel for the petitioner and counsel for
the State.

In this case, the petitioner is challenging the order dated
18.7.2016 passed by the Certificate Officer, Begusarai in Certificate
Case No. 01 of 2014-15, whereby and whereunder, the claim of the
petitioner has been rejected.

It appears that the matter relates to supply of C.M.R.
which the petitioner has not supplied in terms of the agreement led to
the certificate proceeding.



Learned counsel for the petitioner submits that it is the second round of litigation, in the first round of litigation, the requisition was set aside by the Collector, Begusarai and the matter was remanded back. The objection has been raised that the requisition is faulty as is against the law and, as such, continuation of proceeding suffers from inherent illegality. He has further submitted that the Certificate Officer, Begusarai has not taken into consideration the objection filed by the petitioner under Section 9 of the Bihar and Orissa Public Demand Recovery Act and without dealing with the grounds taken in the Objection, by a cryptic order, rejected the same.

Learned counsel for the State as well as counsel for the B.S.F.C. have tried to justify the order passed by the Certificate Officer, submitted that the Certificate Officer has taken into consideration all the objections raised by the petitioner and passed the order and, thus, the petitioner, instead of moving this Court, he should have moved to the appellate court.

Having considered the rival submissions, when an objection is filed, the Certificate Officer is obliged to deal with the objection and pass an order one way or the other but, on perusal of the order, it appears that the Certificate Officer, though has referred to the factual part but has not dealt with the objection raised by the petitioner on fact as well as in law.



In that view of the matter, the order dated 18.07.2016 passed by the Certificate Officer, Begusarai is set aside and the matter is remanded back with a direction to pass a reasoned and speaking order within a period of three months from the date of receipt/production of a copy of this order after giving an opportunity of hearing to both the parties.

The warrant of arrest issued against the petitioner is set aside.

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

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.08.2017
Transmission Date	NA

