

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9448 of 2016

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1. Awadh Kishore Prasad. son of Late Luxmi Prasad resident of Village- Rampur Bazar, Adapur, P.S.- Adapur, District- East Champaran, Proprietor of M/s Luxmi Rice Mill, Adapur, East Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, New Secretariat, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, East Champaran.
4. The District Magistrate, East Champaran at Motihari.
5. The Certificate Officer, East Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Mohan Mishra, Advocate.
For BSFC SC : Mr. Shailendra Kumar Singh, Advocate.
For the State : Mr. Sumant Kumar Singh, AC to GA 2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-02-2017

Heard the parties.

In the present writ petition, petitioner is challenging the entire proceeding of Certificate Case No.26 of 2014-15 arising from the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as the Act) by which a demand was made of Rs.24,11,109.20.

Demand notice has been issued to the petitioner which has been objected by him and he has straightway moved this Court making submission that there is inherent defect in the



requisition as well as certificate. It has been stated that Section 5 of the Act talks about requisition by the competent authority otherwise than the Collector and Section 6 of the Act talks about issuance of certificate on requisition. The Rule has been framed attaching the format as in what manner requisition has been levied by the competent authority where it has been specifically mentioned that amount should be verified by the Requisitioning Officer as well as certificate be issued in Form No.2 and certificate in Form No.1. Form No.2 talks about verification of the accounts by the Requisitioning Officer and Form No.1 talks about certification of the amount by the Certificate Officer which are lacking in both requisition and the certificate.

Learned counsel for the petitioner has placed reliance on the judgment of this Court passed in the case of Hari Prasad Agrawal vs. State of Bihar, reported in 1975 B.B.C.J. 723 and in the case of M/S Vishnu Sugar Mills Ltd. vs. The State of Bihar & others, reported in (2015) 1 PLJR 863. In both the cases issue has been raised about the wrong requisition as well as certificate and the Court decided, in absence of proper requisition and certificate, the entire proceeding is without jurisdiction. Bihar and Orissa Demands Recovery Act is very stringent provision should be strictly followed. Any deviation by Requisitioning



Officer as well as Certificate Officer has not been accepted by the Court and declared the proceeding bad in law.

In the present case, the situation is same. On perusal of the requisition as well as certificate it appears that the same are not in terms of the law as provided in the format as there is no verification and certification by the respondent authority.

In such view of the matter, the entire proceeding of Certificate Case No. 26 of 2014-15 is set aside but liberty is given to the Corporation that the Corporation, if so advised, may rectify the error and take action in accordance with law.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.2.2017
Transmission Date	NA

