

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13065 of 2017

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1. Sarvoday Rice Mill, through its proprietor Subhash Chandra Mauar, Son of Late Ramadhar Mauar, resident of Village Kharaon Chatarbhuji, P.S. Sahar, District-Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar.
2. Principal Secretary, Department of Food & Civil Supply Govt. of Bihar, Patna.
3. C.M.D, Bihar State Food & Civil Supplies Corporation Ltd.
4. District Magistrate, Bhojpur at Ara.
5. District Certificate Officer cum District Manager Bihar State Food & Civil Supplies Corporation Ltd. Bhojpur at Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar

For the BSFC : Mr. Harish Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-10-2017

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

In the present case, petitioner is challenging the orders dated 13.4.2015 and 2.6.2017 passed by Certificate Officer, Bhojpur at Ara by which distress warrant and bailable warrant has been issued against him.

Petitioner is a miller has entered into an agreement for milling the paddy of BSFC. He has altogether received paddy on different dates and as per agreement he was to return rice 67% of the quantity of paddy. Petitioner has failed to supply the rice in terms of the agreement led to filing of the certificate case vide Certificate Case No. 12 of 2014-15.



Learned counsel for the petitioner submits that as per demand notice there is outstanding dues of Rs.71,611,25.78 and out of which he has already deposited Rs. 34 lacs. He is entitled for milling and transporting charges. Inasmuch as he has also filed an objection under Section 9 of the Public Demands Recovery Act and the same is pending. Before disposal of the same the Certificate Officer has issued a warrant of arrest. The Certificate Officer before issuance of any warrant is required to dispose of the objection filed by the petitioner. It is not expected that Certificate Officer will issue warrant of arrest without its disposal.

In such view of the matter, the orders dated 13.4.2015 and 2.6.2017 are hereby set aside and matter is remanded back to the Certificate Officer, Bhojpur at Ara who will examine the case of the petitioner and pass a reasoned order granting certain time to deposit the money. In failure, the Certificate Officer will be at liberty to take action in accordance with law.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.10.2017
Transmission Date	NA

