

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1373 of 2017

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Ram Niwas Sharma, son of Gyan Datt Sharma Prop. Of M/s. Ramniwash Rice Mills, resident of village- Dumra, P.S. Konch, District- Gaya

... .. Appellant/s

Versus

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

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sumeet Kumar Singh, Advocate
For the State	:	Mr. S.RAZA AHMAD -AAG5
		Mr. Md. Kamil Akhtar, AC to AAG-5
For BSFC	:	Mr. Shailendra Kumar Singh, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-10-2017

Having heard learned counsel for the parties, we find that in this case in Certification Case No. 3/2014-15 on 5.2.2015 the Certification Officer has passed an order for recovery of the amount in question and the moot question is as to whether the certification proceeding itself was maintainable without there being any prior adjudication of the amount by any competent authority.



In the case of **Nageshwar Prasad Singh Vs. Rai Bahadur Kashinath Singh: 1958 BLJR 820** following principles have been laid down by the Division Bench:

“The Certificate-Officer must meticulously apply his mind to filing the certificate and filling in the columns and blanks correctly and in appending his certificate in the form prescribed, and that the filling in of the forms is a matter of substance and is imperative, to give the certificate the force of a decree of court of law, and if it is found that the Certificate Officer had not applied his mind at all and that some of the blank spaces were not filled up, or were incorrectly filled up, the document so prepared and filed is not a certificate under the Public Demands Recovery Act. The certificate proceedings are wholly invalid and the officer concerned acts without jurisdiction.”

In the present case the order of the Certification Officer does not show application of mind and the objections raised by the writ petitioner have also not been considered, particularly with regard to jurisdiction of the Certification Officer to deal with the matter without there being quantification or adjudication of the disputed amount.



That apart, it is well settled principle of law that certification proceedings are only execution proceedings of per-determined and adjudicated amount and if there being no adjudication of the amount, the certification proceedings cannot proceed. In this regard attention may be invited to the judgment of the Apex Court in the case of **Budha Singh Vs. The State of Bihar & Ors: AIR 1981 Pat. 149**. That being so, the writ petitioner having raised serious dispute with regard to entitlement of the respondents to recover the amount and there being no any prior adjudication of the disputed amount, the Certification Officer having not adverted or considered these aspects of the matter in the light of the principles of law as discussed above particularly in the case of **Budha Singh** (supra), we have no hesitation in allowing the appeal quashing the order passed by the Certification Officer and remanding the matter back to the Certification Officer to decide all the questions as indicated hereinabove afresh in accordance with law.

Accordingly, this appeal is allowed. The order impugned dated 15.09.2017 passed in CWJC No. 12453 of 2017 and the order dated 5.2.2015 passed by the Certification Officer in Certification Case No. 3 of 2014-15 are quashed.



The matter is remanded back to the Certification Officer and the appellant is granted liberty to raise all the grounds including the ground of exercise of jurisdiction by the Certification Officer to proceed with the matter without there being any per-determination or adjudication of the disputed amount. On the same being done, the Certification Officer shall proceed to decide the issue afresh in accordance with law. The appellant shall appear along with the certified copy of this order before the Certification Officer on 1st November, 2017 and the Certificate Officer shall proceed to decide the issue after hearing all concerned within sixty days thereafter.

In case the appellant does not appear or cooperate in disposal of the certificate case, the Certificate Officer shall be at liberty to proceed in accordance with law.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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