

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11120 of 2017

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1. Paras Nath Singh, son of Late Jiut Singh, Proprietor of M/s Suraj Rice Mill, resident of Town Bhabua, Ward No. 6, P.O.+P.S.- Bhabua, District- Kaimur at Bhabua.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supplies Dept.
2. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Bhabua (Kaimur).

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Pandey
For the State	:	Mr. S. Raza Ahmad- AAG5 Mr. Alok Ranjan, aC to AAG 5
For BSFC	:	Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the petitioner and learned counsel for the State as well as BSFC.

In the present writ petition, petitioner is challenging the letter dated 18.3.2017 passed by the District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur by which he asked the petitioner to furnish bank guarantee amounting to Rs.1,58,11,685/-.

Learned counsel for the petitioner submits that this letter suffers from illegality on account of the fact that as per demand order of the Certificate Officer, outstanding dues is reflected against the petitioner for an amount of Rs.72,00,743.66 which is



apparently clear from the letter of Director Account Administration-cum-Self Employment-cum-Certificate Officer, Kaimur dated 30.1.2017 whereas learned counsel for BSFC has submitted that letter dated 30.1.2017 issued by the Director Account Administration does not reflect the correct amount of dues. As per petitioner correct amount is Rs.1,58,11,685.00 minus Rs.15 lacs which has been deposited against the demand.

It appears that BSFC has issued a notice in terms of the order passed by Hon'ble Supreme Court in SLP No.1779 of 2016 has given direction in order to protect the financial interest, debtor must furnish bank guarantee to ensure return of the outstanding dues. While applying the order the authority was required to examine the fact that amount which has been deposited cannot be mentioned in letter while asking the person to furnish the bank guarantee. The authority was/is required to apply his mind while issuing notice not to issue cyclostyle order to deposit the amount without ascertaining the fact of actual outstanding dues to be paid by the debtor. As apparently clear, the authority, without adjusting the amount paid by the petitioner, asked to furnish the bank guarantee. In such view of the matter, letter dated 18.3.2017 is directed to be modified taking into account the amount which the petitioner has deposited against outstanding



dues.

Till modification of the order, no coercive action will be taken against the petitioner. The respondent authority must modify the order expeditiously.

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

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.11.2017
Transmission Date	NA

