

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18392 of 2017

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Ramlal Sah, Son of Manu Lal Sah, Resident of Village- Nokhpur, Police Station-
Navanagar, District- Buxar (Bihar), Proprietor M/S Mahabir Mini Rice Mill.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The District Magistrate, Buxar.
3. The Deputy Collector, Land Reforms-cum-Certificate Officer, Buxar.
4. The Bihar State Food & Civil Supply Corporation through its Managing Director, Bihar, Patna.
5. The District Manager, Bihar State Food & Civil Supply Corporation, Buxar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Saket Tiwary,
Mr. Subodh Barnwal,
Mr. Sanjeev Kr. Dubey,
Mr. Saket Gupta, Advocates

For the Corporation : Mr. Sanjeev Kumar, Advocate

For the Respondents : Mr. Arvind Ujjwal, SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-01-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs –

“(i) For issuance of a writ in the nature of certiorari for quashing of Order dated 03.07.2017 passed by the Deputy Collector Land Reforms cum Certificate Officer at Buxar (hereinafter be referred to as DCLR) in Certificate Case number – 14/16-17, whereby the objection filed by the petitioner was not considered and thus not reflected in the impugned order dated 03.07.2017 passed by DCLR and the petitioner has wrongly been directed to deposit



Rs. 1,04,65,781.17 (rupees one crore four lacs sixty five thousands seven hundred eighty one and one seven paise only) along with 18 per cent interest with the District Manager, Bihar State Food & Civil Supply Corporation, Buxar.

(ii) For issuance of the writ of certiorari for quashing of order dated 18.08.2017 passed by the DCLR cum Certificate Officer in Certificate Case Number- 14/16-17.”

3. Learned counsel for the petitioner that the impugned order dated 03.07.2017 has been passed clearly under misconception that no objection petition had been filed by the petitioner though it has been acknowledged by him in the order dated 03.05.2017 that the objection petition had been filed. Surprisingly, the impugned order has been passed under Section 10 of the Bihar & Orissa Public Demand Recovery (Amendment) Act, 2010 (for short, “PDR Act”) which presupposes filing of an objection petition and hearing to the person concerned in respect of the same.

4. Learned counsel for the respondent-Corporation appears and has been heard.

5. In view of the unequivocal order dated 30.05.2017 by which the Certificate Officer has acknowledged the filing of the objection petition, the impugned order observing that no objection petition had been filed, is thus ex facie unsustainable. It is also evident that the impugned order has been passed without consideration of the



objection petition of the petitioner and is thus vitiated being in violation of the principles of principles of natural justice. In this regard therefore the writ petition can be disposed even in absence of any counter affidavit being called for from the respondents.

6. The impugned order dated 03.07.2017, accordingly, is quashed and the matter is remanded to the Deputy Collector, Land Reforms-cum-Certificate Officer, Buxar (respondent no. 3) to pass orders afresh in accordance with law after considering the objection petition filed by the petitioner and after grant of opportunity of hearing to the petitioner. The warrant of arrest issued against the petitioner, in terms of the order dated 18.08.2017, shall remain in abeyance till fresh orders are passed by the Certificate Officer, Buxar pursuant to the judgment of this Court.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.01.2018
Transmission Date	N.A.

