

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9543 of 2017

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Laxmi Saw, S/o Manger Saw, Prop. Radha Krishna Rice Mill, R/o Village-
Gopalpur, P.S.- Warsaliganj, District- Nawada.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Affairs, Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supply Corporation, Bihar, Patna.
3. The District Collector, District Nawada.
4. The District Manager, State Food Corporation, District- Nawada.
5. The Certificate Officer, District- Nawada.

.... Respondents

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Appearance :

For the Petitioner : Mr. Krishna Mohan Mishra, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-01-2018

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

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

*“(i) This writ petition is directed to quash the order dated
28.09.2015 as well as whole of the proceeding initiated under
Certificate Case No. 13/14-15.*

*(ii) To hold and declare that the proceeding initiated under
Bihar and Orissa Public Demand and Recovery Act (for short
PDR Act) is illegal and immature because the Certificate
Officer has not recorded satisfaction as required under Section
6 nor the requisition has been filed in accordance with Sub-
Section 2 of Section 5 of the PDR Act.*



- (iii) To hold and declare that the demand sought to be recovered is not public demand within the Sub-Section 6 of Section 3 as such filing of certificate case and issue of notice and certificate is wholly illegal without jurisdiction.*
- (iv) To issue any other writ/writs, order/orders, direction/directions as deem fit and proper."*

3. Learned counsel for the petitioner Mr. K.M. Mishra makes a short submission to assail the certificate proceeding to the effect that the foundation for initiating the certificate itself is inherently defective and incapable of being cured. It is pointed out that several columns in the certificate have been left blank and material particulars have not been stated therein such as certificate number, name and address of the certificate holder, name and address of the certificate debtor, the period for which the demand is raised etc. It is further pointed out that the District Manager of the respondent- BSFC is also a signatory to the certificate for which there is no occasion whatsoever. It is therefore submitted that the certificate is invalid and incapable of being proceeded with. Reliance is placed on the decision of this Court rendered in Hari Prasad Agrawal Vs State of Bihar reported in 1975 BBCJ 723 and also in M/s Vishnu Sugar Mills Ltd. Vs. The State of Bihar & others reported in 2015(1) PLJR 863 wherein the entire proceeding is held to be without jurisdiction for want of proper requisition and certificate.

4. Learned counsel for the respondent-State appears and



has been heard but however he is unable to defend the certificate in view of the apparent defects therein.

5. Having regard to the rival submission of the parties, this Court is of the view that the entire certificate proceeding in Certificate Case No. 13/14-15 has not been validly initiated and the same is accordingly set aside, with liberty to the respondent-Corporation to take fresh steps for recovery of the outstanding dues, if so advised, in accordance with law.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.01.2018
Transmission Date	N.A.

