

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2339 of 2018

=====

Ghuran Ram, Son of Late Raghunandan Ram, Resident of Village- Pakarshah,
P.S.- Saharghat, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplied Corporation through its Managing Director, Sone Bhawan, Near R Block, Patna.
3. The District Collector, Sitamarhi.
4. The District Certificate Officer, Sitamarhi.
5. The Sub-Divisional Officer, Sadar, Sitamarhi.
6. The District Manager Bihar State Food Civil Supplies Corporation, District- Sitamarhi.
7. The Block Development Officer, Dumra, District- Sitamarhi.

.... Respondents

=====

Appearance :

For the Petitioner	:	Mr. Manish Kumar No 13, Mr. Rohit Kumar, Advocate.
For the State	:	Mr. Arvind Ujjwal, SC-4
For the BSFC	:	Mr. Sanjeev Kumar, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-03-2018

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the Bihar State Food & Civil
Supplies Corporation.

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

*“(I) A Certiorari setting aside the Certificate Case No. 13 of
2013-14 which has been initiated against the petitioner, is
contrary to the statutory rules of Public Demand Recovery
Act, 1914 (hereinafter referred as ‘P.D.R. Act, 1914’ for the
sake of brevity) as there is no certificate or the requisition*



as per law, which is evident from the notice attached in Annexure-1, 1/A, 1/B to this writ application, thus amount to defective notice and defective initiation of the certificate case.

(II) A Certiorari setting aside the certificate of the Certificate Case No. 13 of 2013-14 which has been initiated against the petitioner u/s 7 of the Public Demand Recovery Act by which it is asked to pay amount of Rs. 34,69,069.20/- by the petitioner & one Sunil Kumar Mishra, on the ground that the process is not followed properly by the Bihar State Food and Civil Supplies Corporation, Sitamarhi (hereinafter referred as "B.S.F.C." for the sake of brevity) in mentioning the case number without following the mandatory process as the form no. 1, 2 has not been sent properly (requisition) which is in violation of the fundamental rights of the petitioner, the amount of calculation has not been done properly.

(III) A Certiorari setting aside the entire process initiated in Certificate Case No. 13 of 2013-14 including the warrant dated 10/09/2015 (Annexure-2) and to issue the fresh certificate, on the ground that the same is without the proper certificate or requisition under the Public Demand Recovery Act, 1914 and thus the whole process is without jurisdiction.

(IV) Any other writ/writs for granting any other relief/reliefs for which the petitioners are found entitled to in the fact(s) and circumstance(s) of the present case."

3. The immediate concern of petitioner in this case is that a warrant of arrest has been issued against him in connection with the dues amounting to Rs. 34,69,069.20 recoverable in terms of the notice



dated 19.02.2014 issued by the District Certificate Officer, Sitamarhi in Certificate Case No. 13 of 2013-14.

4. It is submitted on behalf of the petitioner that the entire certificate proceeding is unsustainable in law, based as it is on the certificate dated 19.02.2014 wherein an amount of Rs. 34,69,069.20 has been mentioned as recoverable from the petitioner and Sri Sunil Kumar Mishra, whereas the notice under Section 7 of the PDR Act has been issued for recovery of the entire amount aforesaid from the petitioner alone. Moreover, the notice under Section 7 of the PDR Act does not also contain the certificate case number. So also the certificate in Form No. 1 does not contain the satisfaction of the Certificate Officer as the same is undated. It is therefore submitted that the certificate as well as the notice under Section 7 of the PDR Act are defective which cannot be cured.

5. Learned counsel for the respondents appears and has been heard.

6. A perusal of the certificate as well as the notice under Section 7 of the PDR Act bears out that the same do indeed suffer from the infirmities pointed out on behalf of the petitioner. The certificate in Form No. 1 is issued in respect of the petitioner and Sri Sunil Kumar Mishra whereas the notice under Section 7 of the PDR Act has been issued to the petitioner alone for recovery of the entire amount. The certificate does not contain any date to indicate the satisfaction of the



Certificate Officer and so also the notice under Section 7 of the PDR Act does not contain the certificate case number.

7. As regards the effect of a defective certificate on the validity of the certificate proceeding, a Division Bench of this Court in *Nageshwar Prasad Singh Vs. Rai Bahadur Kashinath Singh* (1958 BLJR 820) has observed as follows :-

“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”.

8. In the above facts and circumstances of the case, the certificate issued in Form No. 1 as well as the notice under Section 7 of the PDR Act are hereby quashed with liberty to the District Certificate Officer, Sitamarhi (respondent no. 4) to file a fresh certificate and proceed in the matter of recovery of dues against the petitioner in accordance with law.

9. It is made clear that until a fresh certificate is filed, the



District Certificate Officer, Sitamarhi shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 13 of 2013-14.

10. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.03.2018
Transmission Date	N.A.

