

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17964 of 2017

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1. Vikas Agro Private Ltd., a company incorporated under Indian Companies Act, 1956 having its office at Tarpar, Aurat, District Nalanda represented through Managing Director, Ranjeet Kumar S/o Late Dayanand Prasad, Village- Raghubigha, District- Nalanda.
 2. Ranjeet Kumar, S/o late Dayanand Prasad, Village- Raghubigha, District- Nalanda.
 3. Smt. Renu Sinha, W/o Ranjeet Kumar, R/o Village- Raghubigha, District- Nalanda.

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply Department, Bihar, Patna.
2. The Managing Director, BSFC, Soane Bhavan, Patna.
3. The District Collector, Nalanda, Bihar.
4. The District Manager, BSFC, Nalanda, Bihar.
5. The Certificate Officer, District- Nalanda, Bihar.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Y.V. Giri, Sr. Advocate.
	:	Mr. Krishna Mohan, Advocate.
For the BSFC	:	Mr. Sanjeev Kumar, Advocate.
For the State	:	Mr. Arvind Ujjwal, SC-4
		Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-01-2018

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

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

“(i) To issue appropriate writ to quash the notice dated 07.11.2016 as well as certificate issued by respondent Certificate Officer, Nalanda, and requisition filed by the respondent District Manager, State Food Corporation in Certificate Case No. 03/2016-17 for recovery of price of



rice of Rs. 8,64,88,093/-.

(ii) To hold and declare that the requisition filed by respondent District Manager and certificate and notice issued in pursuance thereto by Certificate Officer is illegal, arbitrary as amount sought to be recovered is not public demand within the meaning Sub-Section 6 of Section 3 read with Schedule-1 of the Bihar and Orissa Public Demand and Recovery Act.

(iii) To further hold and declare that the warrant issued by Certificate Officer without disposing of objection and passing order U/S 10 is illegal and without jurisdiction.

(iv) To hold and declare that proceeding initiated and warrant issued against petitioner nos. 2 and 3 is wholly illegal and arbitrary as the said petitioners are Managing Director and Director of the Company.

(v) To issue any other writ/writs, order/orders/direction/directions as your honour deem fit and proper.”

3. Mr. Y.V. Giri, learned Senior counsel appearing on behalf of the petitioners, at the outset, submits that the petitioner nos. 2 and 3 being the Managing Directors and Directors of the petitioner no. 1-Company are not liable to be proceeded against for recovery of the dues said to be outstanding against the Company. It is further submitted that as far as the petitioner no. 1-Company is concerned, it has already filed its objection petition under Section 9 of the Public Demands Recovery Act which however has not been disposed of and as such recourse to coercive measures by issuance of



warrant of arrest is wholly illegal.

4. Learned counsel for the respondents appears and has been heard. It is stated that delay in disposal of the objection petition is attributable to the petitioner himself who has not been appearing before the Certificate Officer, Nalanda, Bihar.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. In the decision reported in *M/s Vishal Rolling Mills Private Limited & Anr. vs. The Bihar State Power (Holding) Company Limited & Ors.*, 2016 (3) PLJR 561, this Court took note of the well settled principle enunciated in *Kanhaiya Lal vs. The State of Bihar and Others*, [2002 (2) PLJR 553] to the effect that:

“7. In **Kanhaiya Lal** (supra) this Court has held as follows:-

“..... The law on the point is well settled that the liability of the company cannot be enforced against its officers including Director or Managing Director.”

6. In the circumstances, it must be held that continuance of the certificate proceedings against the petitioner nos. 2 and 3 are wholly illegal, unsustainable in law and are accordingly set aside.

7. As regards the petitioner no. 1-Company, it will suffice if a direction is issued to the Certificate Officer, Nalanda, Bihar to consider and dispose of the petitioner's objection petition filed under Section 9 of the Public Demands Recovery Act in accordance with law



expeditiously. Learned counsel for the petitioner undertakes that the petitioner no. 1 would appear before the Certificate Officer, Nalanda, Bihar on 02.02.2018.

8. It is made clear that in case there is any default on the part of the petitioner in the matter of appearance before the Certificate Officer on the said date, the Certificate Officer shall be at liberty to proceed further in the matter.

9. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.01.2018
Transmission Date	N.A.

