

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18141 of 2017

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Shiv Shankar Sah, Son of Lakhan Sah, Proprietor of M/s Shankar Rice Mill,
Ahiyapur, Konch, Resident of Villae- Ahiyapur, Gangti, P.O.- Ahiyapur, P.S.-
Konch, District- Gaya.

.... Petitioner

Versus

1. The Food and Consumer Protection Department Through The Principal Secretary, Bihar at Patna.
2. The State of Bihar through District Magistrate, District- Gaya.
3. The Bihar State Food and Civil Supplies Corporation Limited through its M.D., Bihar at Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Gaya, District- Gaya.
5. The District Certificate Officer, Gaya, District- Gaya.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sumeet Kumar Singh Mr. Abhiprav Singh, Advocates.
For the BSFC	:	Mr. Sanjeev Kumar, Advocate.
For the State	:	AC to SC-4 Mr. Maruth Nath Roy, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-01-2018

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) That the present writ application is being filed for
issuance of an appropriate writ order/direction(s) in the
nature of Certiorari for quashing the Certificate Case No.
02 of 2015-2016 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-2, 4, 4/A to this writ application thus amount to defective notice and defective initiation of the certificate case;

(II) That the present writ application is being filed for issuance of an appropriate writ order/direction(s) in the nature of Certiorari for quashing the certificate of the Certificate Case No. 02 of 2015-16 which has been initiated against the petitioner under Section 7 of the Public Demand Recovery Act by which it is asked to pay amount of Rs. 36,43,732/- on the ground that the process is not followed properly by the Bihar State Food and Civil Supplies Corporation, Gaya (hereinafter referred as “B.S.F.C.” for the sake of brevity) in serving the notice, 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) That the present writ application is being filed for issuance of an appropriate writ order/direction(s) in the nature of Certiorari for quashing the entire process initiated in Certificate Case No. 02 of 2015-16 including the warrant dated 08.09.2016 (Annexure-3) 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) And for issuance of any other relief or relief(s) for which the petitioner is entitled for.”



3. Learned counsel for the petitioner invites attention to the requisition as well as the certificate which form the foundation of the impugned recovery proceedings. It is pointed out that the requisition is not in proper format and such requisition as also the certificate have been made out in the name of one Sri Shankar Sao and not the petitioner therein. The requisition has not been verified as the date herein has been left blank. Similarly the further certificate required in the certificate has also not been dated.

4. 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”.

5. In the above facts and circumstances and with the consent of the parties, the present writ petition is disposed of by



setting aside the requisition, certificate and consequently the entire certificate proceeding in Certificate Case No. 02 of 2015-2016, granting liberty to the respondent no. 4 to issue a fresh requisition, if so advised, in accordance with law.

6. It is made clear that until a fresh certificate is filed, the District Certificate Officer, Gaya shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 02 of 2015-16.

7. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/-

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

