

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9112 of 2015

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Dibesh Kumar Chaudhary, S/o- Sri Surya Narayan Choudhary resident of Village- Bishanpur, P.O.- Basaha, Mirjapur, P.S.- Ashok Paper Mill, District- Darbhanga, Proprietor of M/S - Jagdamba Food Centre, Mill and office At- Surha Chatti, P.O.- Basaha Mirjapur, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Food and Consumer Protection Department, State of Bihar, Patna.
2. The District Collector/Magistrate, Darbhanga
3. The Additional Collector and Chairman of Tender Committee, Darbhanga.
4. Bihar State Foods and Civil Supplies Corporation Limited, through its Chairman.
5. The District Manager, Bihar, State Food and Civil Supply Corporation Ltd., Darbhanga.
6. The Certificate Officer-Cum- Additional Collector, Darbhanga.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. T.N. Maitin, Sr. Advocate Mr. Manish Kumar No. 13 Mr. Rohit Kumar, Advocates
For Respondent-State	:	Mr. Gyan Prakash Ojha, GA 7
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-09-2018

Heard learned senior counsel for the petitioner, learned
counsel for the State as well as learned counsel for the respondent-
Corporation.

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

“(i) To issue appropriate writ in the nature of mandamus



and/order certiorari to quash the order dated 05.02.2015 passed by Certificate Officer-Cum-Additional Collector, Darbhanga in certificate case no. 03/2014-15 as well as whole of the proceeding initiated under Bihar and Orissa Public Demand and Recovery Act (herein after referred to as PDR Act) as without jurisdiction and illegal in view of the fact that the petitioner has not made agreement with the respondent SFC as such order of certificate officer that the petitioner is liable to pay Rs. 192,95,139.60 is too illegal and without authority of law.

(ii) To hold and declare that the proceeding initiated under PDR Act is not maintainable and is void ab-initio as the demand in question is not comes (sic) under the purview of section 3 r/w Rule 15 of Schedule-1 and section 5(2) of the PDR Act, because, neither agreement has been made nor court fee has been deposited by the SFC as required under he act.

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

3. Learned counsel for the petitioner submits that during the pendency of the writ petition, Request Case No. 259 of 2017 has been allowed by judgment dated 01.08.2018 and learned Arbitrator has been appointed for resolving the dispute between the parties. It is therefore submitted that the present writ petition need not be pursued.

4. The writ petition stands disposed of.

5. Considering that the dispute is now pending before the



learned Arbitrator, it is directed that until disposal of the matter no coercive steps shall be taken against the petitioner for recovery of the certificate amount in connection with Certificate Case No. 03/2014-15. Learned counsel for the respondent-Corporation submits that the certificate proceeding may resume with respect to the amount finally determined by the learned Arbitrator.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.09.2018
Transmission Date	N.A.

