

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12810 of 2013

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Saroj Devi W/O Kedar Nath Kumar Alias Kedar Kunwar R/O Village - Dumari,
P.S. Simri, Dist. - Buxar

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, District - Buxar
2. The Deputy Development Commissioner, District - Buxar
3. The Sub-Divisional Office, Dumraon, Dist. - Buxar
4. The Block Development Officer, Simri, Dist. - Buxar
5. The Block Panchayat Raj Officer, Simri, Dist. - Buxar
6. The Certificate Officer, Buxar, District - Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv

Mr. Binod Kumar Singh, Adv

For the Respondent/s : Mr. Rakesh Kumar Chandram, Adv

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-11-2018

I.A. No. 7192 of 2018

The interlocutory application has been filed with the prayer for amendment of the prayer in the writ petition by adding the following prayer—

- iv. *That the instant writ application is filed in the nature of certiorari for quashing the Certificate Case bearing Certificate Case No. 19 of 2011-12 issued under the signature of the Certificate Officer, Buxar on the ground that the requisition which has been filed by the requisitioner is incomplete and the entire address is not given of the petitioner. Moreover, the District is absent also on part there is no certificate being issued to the petitioner and hence renders the proceeding without*



void ab initio.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated to form part of the writ petition.

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3. The main writ petition has been filed for the following reliefs—

(i) For issuance of an appropriate writ/order or direction(s) for quashing the notice dated 09.06.2012 passed in Certificate Case No. 19/2011-12 issued by the Certificate Officer, Buxar (respondent no. 5) for realization of Rs. 1,67,316/- from the petitioner for remaining unused rice of Samagra Gramin Rozgar Yojna.

(ii) For issuance of an appropriate writ/order or direction for directing and commanding the respondent authorities for lifting remaining/unused rice from the Store Room/(Shape of Godown) of the petitioner or to receive proper amount of unused rice @ Rs. 267/- quintal from the petitioner as the said rate was fixed at the time of supplying the rice to the petitioner in between the year 2001-2006.

(iii) And for issuance of any other relief or relief(s) for which the petitioner is entitled for.

3. Learned counsel for the petitioner submits that the entire certificate proceeding is wholly without jurisdiction and unsustainable in view of the inherent infirmities in the requisition issued by the Block Development Officer, Simri, District Buxar (respondent no. 4). It is pointed out that the requisition does not contain the complete



description of the petitioner with reference to her husband's name, her full address with details of the Police Station. The requisition also contains blanks in the verification. Moreover, a copy of the certificate has also not been enclosed with the statutory notice issued under Section 7 of the Bihar and Orissa Public Demands Recovery Act (for short 'the PDR Act') and as such in absence of a valid notice, the Certificate proceeding cannot be taken forward.

4. Learned counsel for the respondents relies on the counter affidavit to oppose the writ petition. However, the infirmities in the requisition have not been denied and so also the claim of the petitioner that a copy of the certificate was not enclosed with the statutory notice has not been answered.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. A bare perusal of the requisition discloses the inherent infirmities therein as the description of the petitioner has not properly been stated and so also the verification portion has been left blank. The requisition as issued cannot therefore be said to accord with the mandatory requirement of the PDR Act and based on such defective requisition the certificate could not have been filed by the learned Collector. Consequently no notice under Section 7 of the PDR Act could also have been issued. This Court is therefore of the view that



the entire certificate proceeding in Certificate Case No. 19/2011-12 is unsustainable and the same is accordingly, quashed. The matter is remanded to the Respondent no. 4 who shall be at liberty to issue fresh requisition for recovery of the dues in accordance with law.

6. It is made clear that until such issuance of fresh requisition, the Certificate Officer, Buxar shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 19/2011-12.

7. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2018
Transmission Date	NA

