

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14734 of 2017

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M/s Riga Sugar Company Ltd. At P.O. & P.S.- Riga, District- Sitamarhi through its Chairman-cum-Managing Director, Om Prakash Dhanuka, son of Late Pursottam Lal Dhanuka, resident of Riga Sugar Company Ltd., P.O. & P.S.- Riga, District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Sugarcane Development Department, Government of Bihar, Patna.
2. The Cane Commissioner, Sugarcane Development Department, Government of Bihar, Patna.
3. The District Magistrate-cum- Collector, Sitamarhi.
4. The District Certificate Officer, Sitamarhi.
5. The Cane Officer, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Y.V. Giri, Sr. Advocate
Mr. Ashish Giri
Mr. Rajat Kumar Tiwary, Advocates
For the Respondents : Mr. Lalit Kishore, Advocate General
Mr. Prabhat Kr. Singh, AC to AG

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-04-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

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

“(i) To issue a writ/order/direction in the nature of certiorari for quashing the order dt. 04.08.2017 passed by the Respondent District Certificate Officer, Sitamarhi in Certificate Case No. 2/2015-16 by which the objection of the petitioner filed under section 9 of the Bihar & Orissa Public Demand Recovery Act, 1914 has been rejected and the petitioner has been directed



to make payment of Rs. 56,44,493.00 and the Requisitionists Department has been directed to calculate the interest on the said amount as per section 17 of the of the Bihar & Orissa Public Demand Recovery Act, 1914 (Annexure - 6)

(ii) To hold and declare that the entire certificate proceeding bearing certificate case no. 02/2015-16 instituted against the petitioner for recovery of cane price with interest for the period 2015-16 is wholly without jurisdiction, illegal and not maintainable and hence fit to be set aside.

(iii) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

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 Cane Officer, Muzaffarpur (respondent no. 5) as well as in the certificate filed by the Collector pursuant thereto. It is pointed out that the requisition issued in the name of Om Prakash Dhanuka does not bear the requisite satisfaction of the Requisitioning Officer nor verification and certification of the amount which are mandatory requirements. Similarly, the certificate has been issued in the name of the occupier of M/s Riga Sugar Company Limited and not in the name of the said Om Prakash Dhanuka. The requisite satisfaction has also not been recorded on the certificate nor has the certificate case number



been stated thereon.

4. Learned counsel for the respondents appears and has been heard. But however, he is unable to controvert the submissions of the petitioner though a counter affidavit has been filed.

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. Clearly there are inherent defects and infirmities in the requisition as well as in the certificate which go to the root of the jurisdiction of the Collector to recover the outstanding amount through the instant certificate proceeding. This Court is therefore of the view that the entire certificate proceeding in Certificate Case No. 2/2015-16 is unsustainable and the same is accordingly, quashed. Respondent no. 5 shall be at liberty to issue fresh requisition for recovery of the dues in accordance with law.

6. The writ petition accordingly stands disposed.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.05.2018
Transmission Date	N.A.

