

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1903 of 2017

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Veena Devi, W/o Ashok Sah, Proprietor of Goyal Rice Mill, Resident of Aliganj,
Gangati Road, P.S. - Mujahidpur, District - Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, District - Bhagalpur.
2. The State Food and Civil Supplies Corporation Ltd. through its Managing Director, Bihar at Patna.
3. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Bhagalpur.
4. The District Certificate Officer, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondents : Mr. Sanjay Kr.Giri, GP9
For the BSFC : Mrs. Namrata Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-05-2018

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) That the present writ application for issuance of an appropriate writ order/direction in the nature of certiorari for quashing the Certificate Case no. 08/2014-15 which has been initiated against the petitioner on the basis of Certificate which forms part of section 7 notice is contrary to the statutory rule of Public Demand Recovery Act, 1914 (hereinafter referred as PDR Act 1914 for the sake of brevity) as it is blank at many column, not properly made which is evident from record of the case.



(ii) That the present writ application for issuance of an appropriate writ order/direction in the nature of certiorari for quashing the Certificate Case No. 08/2014-15 lodged against the petitioner under section 7 of PDR Act by which the petitioner has been asked to pay amount Rs. 14,29,275/- on the ground that the process is not followed properly by the B.S.F.C. Bhagalpur in serving the notice without following the mandatory process as the form no. 1 and 2 (requisition) has not been properly made not verified which is in violation of the fundamental right of the petitioner.

(iii) That the present writ application is being filed for issuance of an appropriate writ/order/direction in the nature of certiorari for quashing the entire order sheet passed in Certificate Case No. 08/2014-15 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) For quashing of order dated 15.05.2015 passed in Certificate Case No. 08/2014-15 by which warrant has been issued against the petitioner.

(v) And for issuance of other relief/reliefs for which the petitioner is entitled in the eye of law.

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 District Manager, Bihar State Food and Civil Supplies Corporation,



Bhagalpur (respondent no. 3) as well as in the certificate filed by the Collector pursuant thereto. It is pointed out that several columns in the requisition issued in the name of M/s Goyal Rice Mill and not against the petitioner are blank and thus a defective requisition has been issued without payment of court fee nor verification and certification of the amount has been made. So also in the certificate issued in Form No. 1, the Certificate Officer has not recorded his satisfaction with respect to the amount outstanding from the petitioner, nor has the certificate case number been stated thereon. Reliance is placed on the decisions of this Court rendered in *Hari Prasad Agrawal Vs State of Bihar reported in 195 BBCJ 723* and also in *M/s Vishnu Sugar Mills Ltd. Vs. The State of Bihar & others reported in 2015(1) PLJR 863* wherein the entire proceeding is held to be without jurisdiction for want of proper requisition and certificate.

4. Learned counsel for the respondents appears and has been heard. Despite order dated 21.06.2017 granting time for filing counter affidavit to the respondent-Bihar State Food & Civil Supplies Corporation, no counter affidavit till date 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. 08/2014-15 is unsustainable and the same is accordingly, quashed. Respondent no. 3 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, Bhagalpur shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 08/2014-15.

7. The writ petition accordingly stands disposed.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	07.05.2018
Transmission Date	N.A.

