

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13531 of 2018

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1. M/s Shivangi Food Processing Unit, Through Its Proprietor, Subodh Kumar Gupta, Son of Late Babu Lal Gupta, resident of Village- Raj Bandh, P.S.- Dohraiya, District- Banka at present resident of Mohalla- Hanuman Path, Tilkamanjhi, P.S.- Tilkamanjhi, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
3. The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna through its Managing Director.
4. The Managing Director, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
5. The Deputy Chief of Claim, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
6. The District Manager, The Bihar State Food and Civil Supply Corporation, Banka.
7. The District Magistrate, Banka.
8. The District Certificate Officer, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.
Mr. Sanjeet Kumar, Adv.
For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG-15.
For BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 24-08-2018

Heard Mr. N.K. Agrawal, Senior learned counsel for the petitioner and learned counsel appearing on behalf of the State.

Petitioner challenges the entire Certificate Proceeding in Certificate Case No.1 of 2016-17 before the Certificate Officer, Banka in the case of M/s Shivangi Food Products, Food Processing Unit wherein the certificate case filed by the District Manager, BSFC,



Banka the contention has been made that the certificate case lodged by the District Manager, BSFC, Banka is defective and that the orders passed thereunder in the certificate case is non est and void. He submits that there was a dispute between the quantity of paddy supplied between the petitioner and BSFC. Petitioner is a authorized milling unit under the name and style of M/s Shivangi Food processing Unit and Company. A dispute arose between the petitioner and the Bihar State Food and Civil Supplies Corporation through the District manager, Banka regarding the amount of paddy received and the CMR rice supplied to the Corporation and the petitioner was directed to make good balance of the amount of Rs.24,41,293/- for the supplies so made. Petitioner approached this Court in C.W.J.C. No.17265 of 2016 which was disposed of on 09.03.2017 which is Annexure-3, whereby the petitioner was directed to file a representation before the Managing Director, Bihar State Food and Civil Supplies Corporation, Patna who would consider the representation and take a decision in accordance with law. Petitioner had also moved for anticipatory bail in Cr. Misc. No.2890 of 2017 against the FIR so lodged against the petitioner in Banka P.S. Case No.886/16, which was disposed of 11.01.2018 and while granting bail it was observed that the matter relates to accounting and representation has already been filed before the Managing Director, BSFC, Banka, Patna in compliance to the interim order passed on



14.02.2017. Learned counsel for the petitioner submits that instead of disposing of the representation by a reasoned order by the Managing Director, Bihar State Food and Civil Supplies Corporation, Patna as envisaged in the orders passed hereinabove, the certificate proceeding initiated has progressed and the objection of the petitioner has been rejected and warrant of arrest has been issued vide order dated 15.05.2018 in connection with Certificate Case No.1 of 2016-17.

From perusal of the certificate filed before the Certificate Officer, it appears that procedure as envisaged in PDR Act has not been followed. The issue is no longer res integra as held in the case of *M/s Riga Sugar Company Ltd. Vs. State of Bihar, C.W.J.C. No.6810 of 2018 vide order dated 25.06.2018* relying on the decision of *Hari Prasad Agarwal Vs. the State of Bihar reported in 1975 BBCJ 723* and in the case of *M/s Vishnu Sugar Mills Limited Vs. State of Bihar reported in 2015(1) PLJR 863* wherein apart from containing a number of blanks which invalidates the certification required to be given by the certificate officer, as well as the certificate does not bear the signature of the certificate officer, the date has also not been given, the entire proceeding has been held to be without jurisdiction for want of proper requisition and certificate.

Learned counsel for the Bihar Food and Civil Supplies Corporation appears and is heard. In view of the defects in the requisition in the certificate pointed out by the petitioner and in view



of the case of M/s Riga Sugar Company (Supra) and that the matter is pending before the Managing Director, Bihar State Food and Civil Supplies Corporation, having been taken in the objection u/S 9 of the PDR Act before the Certificate Officer, Banka and which has been rejected, the entire certificate proceeding in connection with certificate case No.1 of 2016-17 having not been validly initiated is quashed. The order dated 15.05.2018 issuing warrant is also set aside. The matter is already pending before the Managing Director, Bihar State Food and Civil Supplies Corporation in pursuance to the order passed by this Court in C.W.J.C. No.17265 of 2016 which has not been taken to its logical end by the Corporation itself.

Hence, this writ application is allowed with liberty to the Managing Director to dispose of the representation filed by the petitioner in pursuance to the order passed in C.W.J.C. No.17265 of 2016 and Cr. Misc. No.2820 of 2017. The Corporation is at liberty to also institute a certificate case in an appropriate format as provided in the PDR Act after the outstanding dues are calculated in accordance with law.

(Nilu Agrawal, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29/08/2018
Transmission Date	NA

