

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10308 of 2015

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Md. Bechu Ansari Son of Late Nabi Ansari, Resident of village-Parsandi, P.O. and P.S. Parihar, District - Sitamarhi, presently posted as Block Cooperative Officer, Sahebganj, District - Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies, Government of Bihar, Patna
2. The Principal Secretary, Food and Civil Supplies, Government of Bihar, Patna
3. The District Magistrate, Darbhanga, District - Darbhanga
4. The District Certificate Officer, Darbhanga, District - Darbhanga
5. The Bihar State Food and Civil Supplies Corporation Ltd. Sone Bhawan, Birchand Patel Path, Patna through the Managing Director
6. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd. Sone Bhawan, Birchand Patel Path, Patna
7. The District Manager, Bihar State Food Corporation, Darbhanga, District Darbhanga

.... Respondents

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Appearance :

For the Petitioner : Mr. S.B.K. Manglam
Mrs. Anita Kumari, Advocates
For the Respondents : Mr. Prashant Pratap, GP 2
For the BSFC : Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-08-2018

Heard learned 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) For issuance of an appropriate writ in the nature of Certiorari for quashing the order dated 10.03.2015 passed by the Respondent no. 4 in Certificate Case No. 07/2014-15, whereby and where under the Respondent



no. 4 has been pleased to hold the petitioner liable for recovery of a sum of Rs. 8,24,172/- with one another namely Anil Kumar Singh, the Assistant Manager, State Food Corporation, Darbhanga on the ground that since the said demand was not a public demand, no proceeding under Section Public Demand Recovery Act was maintainable before the Certificate Officer.

(ii) For a declaration that the Certificate Officer under the Act is competent to initiate a certificate case only for recovery of a public demand as contemplated under Schedule-I of the Public Demand Recovery Act. If the demand is not convened by any of the provision contemplated under Schedule-I, the Certificate Officer would not be competent to entertain such requisitions and institute a certificate case under the Public Demand Recovery Act.

(iii) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the objection raised in paragraph 7 of the petition filed under Section 9 of the Bihar & Orissa Public Demand Recovery Act (for short, “PDR Act”) with reference to the difference of 883.91 tons of paddy which has directly been purchased by the farmers from the State Food Corporation, Darbhanga has not been considered by the Certificate Officer in his order dated 10.03.2015 while disposing of the objection



petition.

4. Learned counsel for the respondents appear and have been heard.

5. Considering that the petitioner has alternative statutory remedy by way of appeal against the impugned order dated 10.03.2015 passed under Section 10 of the PDR Act, this Court is not inclined to enter into the merits of the matter. The writ petition stands disposed of granting liberty to the petitioner to prefer an appeal against the impugned order dated 10.03.2015 passed by the Respondent No. 4 in Certificate Case No. 07/2014-15, if so advised, in terms of the provisions of the PDR Act which, if filed, should be considered and disposed of on its own merits and in accordance with law.

6. It is made clear that in case such an appeal is filed, the concerned authority would have regard to the present proceeding being pursued by the petitioner, while considering any issue relating to condonation of delay, if applicable.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.09.2018
Transmission Date	N.A.

