

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7027 of 2015

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Raj Kumar Yadav S/o Sri Laxmi Rai, Resident of Village- Bihraura, P.S.-
Ramgarh Chowk, District- Lakhisarai

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department,
Old Secretariat, Patna
2. The Secretary, Food & Civil Supply Department, Old Secretariat, Patna
3. The District Magistrate, Lakhisarai
4. The Sub-Divisional Officer, Lakhisarai
5. The Certificate Officer, Lakhisarai
6. The Block Development Officer, Lakhisarai
7. The Block Supply Officer, Lakhisarai

.... Respondents

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Appearance :

For the Petitioner : Mr. N. K. Agrawal, Sr. Advocate
Mr. Dhananjaya Nath Tiwari
Miss. Preety Kunwar, Advocates

For the Respondents : Mr. Mukul Prasad, AC to GP 18

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-08-2018

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

2. The present writ petition has been filed for setting aside the order dated 16.09.2011 passed in Certificate Case No. 02/2011-12 by learned Certificate Officer, Lakhisarai by which he issued *Kurkit-Jabti* (a process under Section 82 of Cr.P.C.) against the petitioner for recovery of Rs. 3,27,430/- alleged to be the price of undistributed rice supplied to the petitioner under SGRY scheme in the year 2001-2006.



3. Learned senior counsel for the petitioner has taken a specific stand in paragraphs 19 to 21 of the writ petition that there is no written agreement between the petitioner and the officials of the State Government with respect to the distribution of rice under SGRY scheme. It is submitted that in absence of any such written agreement, recovery proceedings by resort to the provisions of the Bihar & Orissa Public Demand Act (for short, "PDR Act") are wholly arbitrary and without jurisdiction in view of the definition of 'public demand' as given in Section 3(vi) of the PDR Act.

4. Learned counsel for the respondents opposes the writ petition with reference to the counter affidavit. However, learned counsel for the respondents has not been able to show anything in the counter affidavit to controvert the stand of the petitioner.

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. Learned counsel for the respondents has not been able to controvert the specific stand of the petitioner that nature of demand sought to be recovered from the petitioner by way of price of undistributed rice under SGRY scheme does not fall within the definition of 'public demand' in absence of any written agreement, hence the same could not been recovered under the provisions of the PDR Act.



6. In the above view of the matter, the impugned order dated 16.09.2011 by which attachment has been issued against the petitioner in Certificate Case No. 02/2011-12 (part of Annexure-2), is hereby quashed and the writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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