

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19855 of 2015

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Avishek Kumar Son of Ravi Shankar Prasad Singh, Resident of Village - Baraon Kala, Police Station - Akhorhigola, District - Rohtas at Sasaram the Proprietor of M/S Hanumanjee Modern Mini Rice Mill, Baraonkala (Mill Code No. 49).

... .. Petitioner

Versus

1. The State of Bihar
2. The Managing Director, Bihar Food and Civil Supplies Corporation, Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Rohtash.
4. The District Magistrate Rohtash.
5. The Certificate Officer Rohtash at Sasaram.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Jitendra Kumar Roy, Advocate
For the Respondents	:	Mr. Nagendra Kumar, AC to AAG IX
For the BSFC	:	Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 21-12-2018

The present writ petition has been filed for quashing the Certificate Case No. 25 of 2014-15 pending before Certificate Officer, Rohtas at Sasaram without ascertaining the disputed amount in arbitration; and for connected reliefs.

2. Learned counsel for the petitioner has sought to question the validity of certificate proceedings in Certificate Case No. 25 of 2014-15 mainly on the ground that in view of the arbitration clause in the agreement, the petitioner had filed a petition before the District Manager, Bihar State Food and Civil Supplies Corporation, Rohtas for referring the matter to the District Magistrate, Rohtas at Sasaram for arbitration but nothing has been done in this behalf.



3. A counter affidavit has been filed on behalf of the respondent-Bihar State Food and Civil Supplies Corporation with a categorical denial in paragraph 7 thereof stating that the petitioner has not filed any application for arbitration before the District Manager nor the District Magistrate, Rohtas and nothing is pending in this regard. It is further stated that the petitioner has not filed any objection petition under Section 9 of the Bihar & Orissa Public Demand Recovery Act (for short, "PDR Act")

4. Having heard learned counsel for the parties and on consideration of the materials available on record, this Court finds that the stand of the petitioner that an application has been filed before the respondent no. 3 for arbitration in terms of the agreement, has been categorically denied by the respondent-BSFC. No rejoinder thereto has been filed on behalf of the petitioner in this regard. The stand of the respondent-BSFC that the petitioner has also not filed any objection petition under Section 9 of the PDR Act has also not been disputed.

5. In the above circumstances, this Court is of the view that ends of justice will be met if the petitioner is granted liberty to approach the Certificate Officer, Rohtas at Sasaram (respondent no. 5) with an objection petition under Section 9 of the PDR Act. If such an objection petition is filed within a period of three weeks from today, the same shall be considered and disposed of in accordance with law and after grant of opportunity of hearing to the petitioner.



6. It is made clear that in such event, the Certificate Officer, Rohtas at Sasaram shall refrain from taking coercive steps for recovery of the outstanding dues until disposal of the said objection petition.

(Vikash Jain, J)

BT/Chandran

AFR/NAFR	NAFR
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