

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3558 of 2018

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Sunil Kumar Jaiswal @ Sunil Jaiswal, Son of Ram Nath Jaiswal, Resident of
Line Bazar, P.S.- Khazanchi Hat, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna.
4. The District Magistrate, Purnea.
5. The Superintendent of Police, Purnea.
6. The Certificate Officer, Purnea.
7. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar
For the BSFC : Mr. Sanjeev Kumar, Adv
For the State : Mr. Sushil Kumar Mallik, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-02-2018

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the respondent-Corporation

2. This writ petition has been filed for quashing the entire
certificate proceeding initiated against the petitioner in Certificate Case
No. 678 of 2014-15 and for connected reliefs.

3. The immediate concern of petitioner in this case is that
a warrant of arrest has been issued against him in connection with the
dues amounting to Rs. 18,83,315.75 recoverable in terms of the notice
dated 29.03.2016 issued by the Certificate Officer, Purnea in Certificate
Case No. 678 of 2014-15.

4. It is submitted on behalf of the petitioner that the
certificate proceeding is wholly illegal and unsustainable in law. It is



stated that the mandatory notice under Section 7 of the Bihar & Orissa Public Demands Recovery Act (for short, "the Act") has not been served upon the petitioner. On getting knowledge in respect of the certificate proceeding, a certified copy of the certificate was obtained by the petitioner which discloses that the same has been signed by the District Manager of the Bihar State Food & Civil Supplies Corporation, Purnea (for short, "the BSFC") without indicating the relevant certificate number, date etc. It is submitted that the mere fact that the certificate has also been signed by the Certificate Officer will not clothe it with validity.

5. Learned counsel for the respondents appears and has been heard.

6. This Court finds considerable force in the submissions of learned counsel for the petitioner. The fact that the certificate has been issued under the signature of the District Manager, BSFC, Purnea, who is not the Certificate Officer, denudes it of its validity. Under Section 5 of the Act, the District Manager could only have written and sent a requisition in Form No. 2 to the Certificate Officer and there could have been no occasion for him at all to have signed the certificate issued in Form No.1. The certificate, no doubt also contains the signature of the Certificate Officer beside that of the District Manager, which rather shows lack of independent application of mind by the Certificate Officer. Section 6 of the Act requires the Certificate Officer to be satisfied that the demand is recoverable before he signs the certificate. In the present case, it is clear that he has merely signed the certificate mechanically beside the signature of the District Manager.

7. In the above circumstances, the certificate issued in Form No.1 signed by the District Manager of the BSFC and the Certificate Officer in the manner aforesaid is held to be invalid and is hereby quashed. The matter is remitted to the Certificate Officer, Purnea for issuance of a fresh notice and to proceed in the matter in



accordance with law.

8. It is made clear that in the meantime, the Certificate Officer, Purnea shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 678 of 2014-15.
9. The writ petition stands disposed of .

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.03.2018
Transmission Date	NA

