

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5085 of 2017

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Rajesh Kumar, Son of Sonelal Malkar, Resident of District-Board Quarter, Ward no. 8, P.S. Dumra, District-Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food Supply and Consumer Protection, Govt. of Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supply Corporation, Patna.
3. The District Manager, State Good Corporation, Sitamarhi.
4. The District Magistrate, Sitamarhi.
5. The Certificate Officer-cum-Senior Deputy Collector, Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Verma
Mr. Naresh Chandra Verma, Advocates
For the Respondents : Mr. S. Raza Ahmad-AAG5
Mr. Alok Ranjan, AC to AAG 5
For the BSFC : Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-02-2018

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

2. The present writ petition has been filed for the
following reliefs –

“(i) For quashing the proceedings of Certificate Case No. 15 of 2015-16 with respect to the petitioner initiated against the petitioner and one other person by the Certificate Officer-cum-Senior Deputy Collector, Sitamarhi under the Bihar & Orissa Public Demand Recovery Act, 1914 with regard to alleged Public Demand of Rs. 31,19,344.00.

(ii) For a direction to the Respondent Certificate Officer-



cum-Senior Deputy Collector, Sitamarhi to not proceed with the Certificate Case No. 15 of 2015-16 with respect to the petitioner.

(iii) For any other direction/orders under the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the entire certificate proceeding is wholly without jurisdiction and unsustainable in view of the inherent infirmity in the requisition issued by the respondent-Corporation on the basis of which the certificate proceeding had been initiated. It is pointed out that the address of the certificate debtor has not been mentioned and more significantly, the requisite verification at the foot of the requisition which is an essential part of the prescribed Form No. 2 is completely missing and absence of such verification leads to invalidity of the requisition.

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

5. Having regard to the nature of the inherent infirmity in the requisition which does not contain the dated verification, the same cannot be treated to have been issued in the prescribed Form No. 2 which is mandatory in nature. This Court is therefore of the view that the certificate proceeding in Certificate Case No. 15 of 2015-16 cannot be sustained and is hereby quashed. The respondent-Corporation shall be at liberty to issue fresh requisition for recovery of its dues in



accordance with law.

6. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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