

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9032 of 2015

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Umesh Chand S/o Late Ram Sundar Chand, resident of village- Bora Rahi, P.O.
Naulakhi, P.S. Janaki Nagar, District- Purnea

.... Petitioner

Versus

1. The State of Bihar through the D.M. Purnea
2. The Deputy Development Commissioner, Purnea
3. The Sub-Division Officer, Banmankhi, District- Purnea
4. The Block Development Officer, Banmankhi, District- Purnea
5. The Block Programme Officer, Banmankhi, District- Purnea

.... Respondent

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Appearance :

For the Petitioner : Mr. Shailendra Kumar Singh, Adv.

For the Respondents : Mr. Ashok Priyadarshi, GA-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-09-2018

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

2. The present writ petition has been filed for quashing
the Case No. 06/2009-10 issued by the Certificate Officer-cum-Sub-
Divisional Officer, Banmankhi, Purnea on 18.12.2009 against the
petitioner, directing for realization of price at APL rate of the rice i.e.
Rs. 2,58,888/- remained with the petitioner.

3. Learned counsel for the petitioner has taken a specific
stand 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 18.12.2009 by which attachment has been issued against the petitioner in Case No. 06/2009-10 (Annexure-1), is hereby quashed and the writ petition stands allowed.

(Vikash Jain, J)

B.T/Ibrar

AFR/NAFR	NAFR
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