

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10381 of 2018

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Bijay Chaudhary @ Bijay Pd. Chaudhary, aged about 55 years, son of late Sita Ram Choudhary, resident of Bageshwari Asthan, Gulab bagh, P.S. Sadar, District Purnea, proprietor of M/s Nidhi Rice Mill, Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Food and Civil Supplies, Govt. of Bihar, Patna.
3. The District Magistrate, Purnea
4. The Superintendent of Police, Purnea
5. The Certificate Officer, Purnea
6. 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, Adv

For the Respondent/s : Mr. S.RAZA AHMAD -AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-06-2018

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. 664 of 2014-2015 and for connected reliefs.

3. It is submitted on behalf of the petitioner that the certificate issued in Form No. 1 of Schedule-II of the Bihar & Orissa Public Demands Recovery Act (for short, "the Act") does not meet with the statutory requirements as the same has been signed by the District Manager, Bihar State Food & Civil Supplies Corporation, Purnea (for



short, “the BSFC”) as evident from the copy of the certificate enclosed with the notice under Section 7 of the Act. The mere fact that the certificate has also been signed by the Certificate Officer will not clothe it with validity.

4. Learned counsel for the respondents submits that the certificate is valid inasmuch as it has duly been signed by the Certificate Officer.

5. 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 a 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 below the signature of the District Manager.

6. 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 certificate as well as the notice under Section 7 of the Act and proceed in the matter in accordance with law.

7. 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. 664 of 2014-2015.

8. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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