

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10606 of 2018

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Abul Fazal Md. Nasir son of Late Ahmad Hussain Shams, Resident of Village -
Line Masjid Kishanganj, P.S. & District - Kishanganj.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Foods and Consumer Protection, Bihar, Patna.
2. Bihar State Food and Civil Supplies Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel Path, Patna - 800001.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel Path, Patna - 800001.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Purnea.
5. The District Certificate Officer, Purnea.

.... Respondents

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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate.
Mr. Dhananjaya Nath Tiwari, Advocate.
For the Respondents : Mr. Arvind Ujjwa, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-07-2018

Heard learned Senior counsel for the petitioner and
learned counsel for the respondents.

2. The present writ petition has been filed for quashing
the entire certificate proceeding including the order dated 01.12.2017
passed by the learned District Certificate Officer, Purnea in Certificate
Case No. 818/2015-16 by which without service of any notice of the
proceeding the warrant of arrest has been issued against the petitioner
for recovery of Rs. 1,23,67,004.76.

3. It is submitted that the Certificate Officer has
arbitrarily proceeded to issue warrant of arrest without issuance of
any notice under Section 7 of the Public Demands Recover Act prior to



such coercive action being taken.

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

5. Having regard to the assertions made on behalf of the petitioner, this Court is of the view that issuance of warrant of arrest without first serving a statutory notice under Section 7 of the P.D.R. Act is arbitrary and renders the entire certificate proceeding without jurisdiction.

6. In the above view of the matter, the order dated 01.12.2017 passed by the District Certificate Officer, Purnea (respondent no. 5) in Certificate Case No. 818/2015-16 is hereby quashed, with the observation that the Certificate Officer shall be at liberty to serve the requisite notice upon the petitioner under Section 7 of the P.D.R. Act and thereafter proceed in accordance with law.

7. It is made clear that in case the stand of the petitioner denying non-service of notice under Section 7 of the P.D.R. Act is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

8. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.07.2018
Transmission Date	N.A.

