

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11839 of 2015

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Santosh Kumar Singh @ Santosh Singh S/o Sri Ramayan Mahto, Resident of
Village - Raipur Chour, P.S. - Badi Out Post, Shiv Sagar, District - Rohtas.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Rohtas at Sasaram.
2. District Certificate Officer, Rohtas at Sasaram.
3. District Manager, State Food Corporation, Rohtas at Sasaram.

.... Respondents

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Appearance :

For the Petitioner : Mr. D. K. Sinha, Sr. Advocate

Mr. Abhinay Raj, Advocate

For the Respondents : Mr. Manoj Kr. Sinha, AC to GA 9

For the BSFC : Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-08-2018

The present writ petition has been filed for quashing the entire certificate proceeding as well as the demand notice dated 28.05.2015 issued by the District Certificate Officer, Rohtas, Sasaram in Certificate Case No. 87/2014-15 for recovery of Rs. 42,33,453.24 (Annexure-3).

2. Mr. D.K. Sinha, learned senior counsel appearing on behalf of the petitioner, submits that the impugned order directing for issuance of distress warrant against the petitioner is wholly arbitrary and illegal being contrary to the provisions of the Bihar & Orissa Public Demand Recovery Act (for short, "the PDR Act"). A bare perusal of Annexure-3 will disclose that by earlier order dated 18.09.2014, a



notice under Section 7 of the PDR Act was directed to be issued and straightway thereafter the impugned order for issuance of distress warrant has been issued.

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

4. 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. The Certificate Officer by order dated 18.09.2014 had directed issuance of notice under Section 7 of the PDR Act. However, it is not known whether such notice was issued and served upon the petitioner to enable filing of the objection petition under Section 9 of the PDR Act. Failure to follow the prescribed procedure under the PDR Act is writ large in this case. A specific stand has been taken in paragraph 13 of the writ petition that notice under Section 7 of the PDR Act was not served upon the petitioner. As such, the petitioner has been denied an opportunity of filing objection petition denying his liability under the Act. The Certificate Officer could not have straightway proceeded to direct issuance of distress warrant against the petitioner.

5. In the above view of the matter, the impugned demand notice dated 18.09.2014 as well as the order dated 28.05.2015 issuing distress warrant against the petitioner (Annexure-3) are hereby



quashed with a direction to the Certificate Officer, Rohtas at Sasaram to proceed in the matter in accordance with law.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.09.2018
Transmission Date	N.A.

