

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18467 of 2017

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Vishwanath Prasad, Son of Late Gauri Mahto, Resident of Village- Hira Pakar,
P.O.- Gorbaliya, P.S. - Manuapul, District- West Champaran, Proprietor of M/S
Ram Sundari Devi Automatic Rice Mill, Industrial Area, Kumar Bagh, West
Champaran, Bettiah.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The Managing Director, Bihar State Food and Civil Supplies, Corporation Limited, Patna.
4. The District Magistrate, West Champaran, Bettiah.
5. The Superintendent of Police, West Champaran, Bettiah.
6. The Certificate Officer, West Champaran, Bettiah.
7. The District Manager, Bihar State Food and Civil Supplies, Corporation Limited, West Champaran, Bettiah.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Kumar, Advocate.
For the BSFC : Mr. Sanjeev Kumar, Advocate.
For the State : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-03-2018

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

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

*“(i) For issuance of writ of mandamus commanding upon
the respondents to settle the account of the petitioner as
after adjustment of Bill of milling charge, transportation,
handling charge and also security amount deposited by
the petitioner as no amount remains unpaid against the
petitioner against the cost of unlifted CMR from the mill of
the petitioner.*

*(ii) For issuance of an appropriate writ order/direction in
the nature of certiorari for quashing the Certificate Case*



No. 3 of 2017-18 which has been initiated against the petitioner on the basis of certificate (form-1) which form part of Section 7 notice and, Requisition (form-2) has not served to the petitioner and non-issuance of Certificate i.e. Form-2 which is contrary to the statutory rules of Public Demand Recovery Act, 1914 (hereinafter referred to as "the PDR Act").

(iii) For issuance of writ in the nature of certiorari for quashing the Certificate Case No. 3 of 2017-18 which has been initiated against the petitioner under the Public Demands Recovery Act on the ground that disputed amount cannot be recover through the Certificate proceeding.

(iv) For issuance of writ in the nature of certiorari for quashing the Certificate Case No. 3 of 2017-18 which has been initiated against the petitioner under Section 7 of the Public Demand Recovery Act on the ground that the process is not followed properly by the Bihar State Food and Civil Supplies Corporation (hereinafter referred as BSFC for the sake of brevity) in serving the notice, as the Form no. 1 has neither served, Certificate proceeding is issued without application of independent mind and without proper verification and delay therefore it is violation of the fundamental right of the petitioner.

(v) For issuance of the writ of certiorari for quashing the letter no. 6656 dated 11.07.2017 issued under the signature of the Managing Director, BSFC by which a direction is issued to the District Manager to lodge F.I.R. against the petitioner without considering the fact that no amount remained unpaid according to calculation by BSFC himself against the petitioner against the unlifted quantity of CMR from the Mill of the petitioner after the



adjustment of milling cost, transportation and handling cost as well as the security deposit by the petitioner which is an admitted fact of the District Manager, BSFC, Bettiah.

(vi) For the issuance of writ of mandamus commanding upon the respondents not to take any coercive steps including filing of F.I.R. against the petitioner till the disposal of the present case.”

(vii) For the other reliefs which may be granted to the petitioner in the facts and circumstance of this case.”

3. At the very outset, learned counsel for the petitioner submits that rather than prolonging the litigation, the petitioner is interested in finally settling the matter and making payment of the outstanding dues after proper calculation of the same. It is submitted that a certificate has been drawn for recovery of an amount of Rs. 1,71,771.25 whereas a letter dated 04.09.2017 issued by the respondent-BSFC to the Certificate Officer itself discloses that the total recoverable amount by way of interest was Rs. 86,959.45. It is further submitted that even otherwise, the said amount of interest has erroneously been charged by belatedly adjusting an earlier bill of Rs. 82,104.12 much later on in the year 2017.

4. Having regard to the stand of the petitioner and in the interest of justice, this Court directs the respondent Corporation to consider the claim of the petitioner with regard to erroneous charging of interest and take a final decision in that regard. The petitioner shall be at liberty to approach the Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna (respondent no. 3) with a fresh representation for this purpose. If any such representation is filed within a period of two weeks from today, the same shall be considered and disposed of by the respondent no. 3 in accordance with law after grant of hearing to the petitioner, within a period of eight weeks thereafter. If any amount is finally determined as outstanding



against the petitioner, he undertakes to pay such amount within a period of two months of such determination. In case of default in payment, the Certificate Officer shall be at liberty to proceed for recovery of the remaining dues.

5. If the petitioner abides by the aforesaid condition, no coercive steps shall be taken against him, whether by way of institution of an F.I.R. or otherwise, for recovery of the said dues.

6. In case the petitioner makes payment of the entire outstanding dues, if any, as may be determined by the respondent no. 3, the certificate proceeding in Certificate Case No.03 of 2017-18 shall automatically stand quashed.

7. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.03.2018
Transmission Date	N.A.

