

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.43 of 2018

In

Civil Writ Jurisdiction Case No.1929 of 2017

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Prahalad Prasad Sah Son of Sri Bodh Narayan Sah, resident of village -
Madhay, P.S. Rajoun, District - Banka

... ... Appellant/s

Versus

1. The State of Bihar through the Collector, Banka.
2. The Certificate Officer, Banka.
3. The District Manager, Bihar State Food and Civil Supply Corporation, Banka.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sumeet Kumar Singh, Advocate
For the Respondent/s	:	Mr. S. RAZA AHMAD-Sr. Advocate
		Mr. Alok Kumar, Advocate
For B.S.F.C.		Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-03-2018

Delay of 3 days in filing of the appeal is condoned
and I.A. No. 1274 of 2018 stands allowed and disposed of.

Keeping in view the consistent orders passed by this
Court in various cases, as is evident from the orders passed in
L.P.A. No.1083 of 2017 on 18.10.2017, in L.P.A.No.1282 of 2017
on 13.9.2017, we are of the considered view that once the
certification proceedings were initiated based on an order passed
by the Departmental Authority without adjudication of the claim by
an independent agency, in view of the law laid down way back in
the year 1958 in Nageshwar Prasad Singh Vs. Rai Bahadur



Kashinath Singh, 1958, BLJR 820 and followed in Budha Vs. The State of Bihar & Ors., AIR 1981 Pat. 149, the certification proceedings being based on a determination which is not in accordance with law, till finalization of the matter either in arbitration or in appeal filed by the petitioner under the Bihar and Orissa Public Demands Recovery Act, all coercive steps for recovery of the amount in question shall be kept in abeyance.

The respondents would be free to proceed with the steps for recovery after the proceedings either before the arbitrator or before the Appellate Authority is completed. We request the Arbitrator and the statutory Appellate Authority under the Bihar and Orissa Public Demands Recovery Act to conclude the proceeding at an earlier date, preferably within three months.

With the aforesaid modification in the order passed by the learned Writ Court, the appeal is disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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