

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6810 of 2018

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M/s Riga Sugar Company Ltd. At P.O. & P.S. - Riga, District - Sitamarhi through its Occupier namely Sri Nirmal Parasramka, son of Late Keshav Prasad Parasramka, resident of Riga Sugar Company Ltd., P.O. & P.S. - Riga, District Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Sugarcane Development Department, Government of Bihar, Patna.
2. The Cane Commissioner, Sugarcane Development Department, Government of Bihar, Patna.
3. The District Certificate Officer, Sitamarhi.
4. The Cane Officer, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashish Giri,
Mr. Pranav Kumar, Advocates
For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-06-2018

I.A. No. 2980 of 2018

The interlocutory application has been filed with the prayer for amendment of the relevant portion of the prayer in the writ petition by adding the following prayers –

“1(vii) To issue a writ/order/direction in the nature of certiorari for quashing the order dated 21.03.2018 passed by the District Certificate Officer, Sitamarhi in Certificate Case no. 2/2017-18 by which the objection of the petitioner under section 9 of Bihar & Orissa Public Demand Recovery Act, 1914 has been rejected and has directed that the sale amount from sale of sugar, Bagasse and Molasses etc by the petitioner for the year 2017-18 be kept in a separate joint account. The said separate joint account shall be opened jointly in the name of three



representatives of the petitioner and by two government employees i.e. Cane Officer, Muzaffarpur and Circle Officer, Riga. 85% of the sale proceed is to be deposited in the said account. Further the Cane Officer has been directed to calculate the interest amount under section 17 of the Act.

(viii) To hold and declare that the entire certificate proceeding bearing Certificate Case No. 2/2017-18 instituted against the petitioner for recovery of cane price with interest for the period 2017-18 is wholly without jurisdiction, illegal and not maintainable and accordingly, fit to be set aside including the notice issued under section 7 of the Bihar & Orissa Public Demand Recovery Act, 1914 dated 01.02.2018 and also the requisition issued in Form-2 dated 27.01.2018 and also the certificate in Form-1 dated 01.02.2018.

(ix) To pass an interim relief/ex-parte ad-interim relief preventing the respondent authorities from taking any coercive steps against the petitioner for recovery of the amount in question and also directed them to unlock the godown of the petitioner where the sugar has been kept located at Riga and allow the petitioner to sell the same."

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

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3. The main writ petition has been filed for the following reliefs –

(i) To issue a writ/order/direction in the nature of certiorari for quashing the letter no. 56 dt. 14.03.2018



issued by the Cane Officer, Muzaffarpur to the District Certificate Officer, Sitamarhi by which in relation to a certificate proceeding bearing case no. 2/2017-18 for recovery of the amount action for issuance of BW/DW has been recommended and the sugar kept in the godown of the petitioner has been asked to be seized and sold thereafter, and the said proceed to be paid in favour of sugarcane grower in relation to due for the period 2017-18 (Annexure-6).

(ii) To issue a writ/order/direction in the nature of certiorari for quashing the letter no. 59 dated 15.03.2018 issued by the District Certificate Officer, Sitamarhi in relation to the said Certificate case no. 2/2017-18 by which the sugar in the godown of the petitioner has been sized and kept under supervision of the Cane Officer, Muzaffarpur and direction has been issued to prepare inventory by maintaining status quo (Annexure-7).

(iii) To issue a writ/order/direction in the nature of certiorari for quashing the letters dated 19.03.2018 issued by the Cane Officer, Muzaffarpur by which in terms of letter no. 59 dated 15.03.2018 the petitioner has been directed that the petitioner cannot proceed with the sale of sugar unless an order is passed for the same by the District Certificate Officer, Sitamarhi.

(iv) To hold and declare that the order for seizure of the sugar of the petitioner during the pendency of the certificate case no. 02/2017-18 even before an order under section 10 of the Bihar & Orissa Public Demands Recovery Act, 1914 has been passed is wholly illegal and without jurisdiction.

(v) To issue a writ/order/direction in the nature of mandamus directing the respondent to immediately restore the possession of the sugar kept in the godown of



the petitioner back to the petitioner and permit the petitioner to sale the same so that the sale proceed can be immediately utilized for payment to the cane growers for the year 2017-18.

(vi) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

4. Learned counsel for the petitioner submits that the entire certificate proceeding is wholly illegal and without authority of law as a defective requisition has been issued. The requisition incorrectly reflects the name of the certificate debtor as Sri Nirmal Parasrama, who merely happens to be the occupier of the petitioner-company. The requisition also contains various infirmities as the satisfaction and verification required to be recorded have been left blank. Similarly, the certificate filed also suffers from several infirmities such as absence of certificate case number, name of the certificate debtor shown as occupier of the petitioner-company, apart from containing a number of blanks which invalidates the certification required to be given by the Certificate Officer. So also in the certificate issued in Form No. 1, the Certificate Officer has not recorded his satisfaction with respect to the amount outstanding from the petitioner. Reliance is placed on the decisions of this Court rendered in *Hari Prasad Agrawal Vs State of Bihar* reported in 1975 BBCJ 723 and also in *M/s Vishnu Sugar Mills Ltd. Vs. The State of Bihar & others* reported in 2015(1) PLJR 863 wherein the entire proceeding is held to be without jurisdiction for want of proper requisition and certificate.



5. None appears on behalf of the respondent-State despite repeated calls. Even though a counter affidavit has been filed on behalf of the respondents, the stand of the petitioner has not been controverted.

6. In view of the defects in the requisition and the certificate as pointed out by the petitioner and in respect of which objection was also taken before the Certificate Officer, this Court is of the view that the entire certificate proceeding in Certificate Case No. 02/2017-18 having not been validly initiated, it is not necessary to consider the validity of the order of the Certificate Officer dated 21.03.2018 passed under Section 10 of the Bihar & Orissa Public Demand Recovery Act, 1914 (Annexure-11 to the interlocutory application) and the same is accordingly set aside, with all consequential benefits. The Cane Officer is at liberty to issue fresh requisition to enable appropriate steps to be taken for recovery of the outstanding dues in accordance with law.

7. The writ petition stands allowed as above.

B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.06.2018
Transmission Date	N.A.

