

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9199 of 2018

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M/s Sasa Musa Sugar Works Pvt. Ltd. through the Occupier Shahid Ali S/o Sri Shaukat Ali R/o Sasa Musa, P.S. Kuchaikot, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Sugar Cane Development Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum-Collector, Gopalganj.
4. The Sugarcane Officer, Gopalganj, District- Gopalganj.
5. The District Certificate Officer, Gopalganj, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gajendra Kumar Singh, Advocate.

For the Respondents : Mr. Abbas Haider, SC-6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-07-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

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

“(a) For quashing of entire Certificate Proceeding started in Case No. 3/17-18 by the Certificate Officer, Gopalganj and the notice dated 08.02.2018 issued under Section 7 of the Bihar and Orissa Public Demand Recovery Act.

(b) For a direction to the District Certificate Officer, Gopalganj not to take any coercive step against the petitioner during pendency of this writ application.

(c) For any other relief or reliefs.”



3. 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 without payment of court fee and with a number of blanks, such as the verification and certification of the amount. So also in the certificate issued in Form No. 1, Certificate Officer has not recorded his satisfaction with respect to the amount outstanding from the petitioner. Moreover, the certificate filed by the Certificate Officer under the signature inexplicably also carries the signature of the Sugarcane Officer. 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.

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

5. 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. 03/2017-18 has not been validly initiated and the same is accordingly set aside, with liberty to the respondent–Sugarcane Officer, Gopalganj



(respondent no. 4) to take fresh steps for recovery of the outstanding dues, if so advised, in accordance with law.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

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