

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1401 of 2019

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Mukund Kumar Jha, aged about 34 years (Male) son of late Lalmohan Jha,
resident of village- Warisaliganj, P.S- Muzahidpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies Department, Government of Bihar, Patna
2. The Managing Director, Bihar State warehousing Corporation, Maurya Lok Patna.
3. The Certificate officer Cum Deputy Collector, Disaster Management Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Saket Tiwary, Adv.
For the Respondent/s : Mr.S.Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-01-2019 Learned counsel for the petitioner is permitted to make necessary correction in the Typographical errors in course of the day.

Petitioner has moved this Court for setting-aside the order dated 15.02.2018 passed by the Certificate Officer-cum-Deputy Collector, Disaster Management, Government of Bihar, Patna. A copy of the order is placed at Annexure '3' to the present writ application from which it appears that on the requisition sent by the Managing Director, Bihar State Warehousing Corporation, as contained in Letter No.907 dated 03.05.2017, the present Certificate Case giving rise to Certificate Case No.04/17-18 has been registered and the



petitioner has been called upon to show cause in terms of Section 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as the Act of 1914).

Mr. Saket Tiwary, learned counsel representing the petitioner submits that the order impugned is bad in law for the simple reason that the Certificate Officer has not recorded his satisfaction as regards recoverability of the demand. Learned counsel points out that in terms of Section 6 of the Act of 1914 the Certificate Officer must record his satisfaction that the demand is recoverable. It is only on reaching of such satisfaction that he can sign in the prescribed form and shall proceed in accordance with law. Learned counsel has further submitted that the alleged recovery of loss and damage in the stock of the Food Corporation of India cannot be done under the provisions of the Act of 1914. He has referred and relied upon a learned Coordinate Bench Judgment of this Court in the case of **Arun Kumar Chourasia v. State of Bihar** reported in **2008 (3) PLJR Page 22** to submit that an exparte self-assessment by the authorities who have made the requisition in the present case cannot be said to be just and proper as there is no adjudication of competent Court of law on this issue.

Mr. Alok Ranjan, learned AC to AAG 5 submits that



the writ application seems to be premature inasmuch as, the petitioner could have raised all these issues before the Certificate Officer. Learned counsel submits that it is apparent from the statements made in the writ application that the petitioner has not submitted himself to the jurisdiction of the Certificate Officer till date, therefore, it would be just and proper at this stage to direct the petitioner to appear before the Certificate Officer and take all such pleas which are available to him including the plea of jurisdiction before the Certificate Officer alone.

Having heard learned counsel for the parties and on perusal of the records, this Court is of the considered opinion that after receipt of show cause notice in terms of Section 7 of the Act of 1914, the petitioner will be well within his rights to raise all such issues which may be available to him including the question of jurisdiction and the recoverability of the amount before the Certificate Officer. The petitioner may thus appear before the Certificate Officer within a period of 30 days from today and file his show cause containing all his pleas and thereupon the Certificate Officer shall be obliged to consider the issues raised by the petitioner including that of those which are arising out of Section 6 of the Act of 1914. The Certificate



Officer shall decide that issue arising out of Section 6 of the Act of 1914 as a preliminary issue because it is about the jurisdiction of the Certificate Officer. In case the petitioner would be aggrieved by such order, he will have the liberty to move this Court challenging the order deciding the issue of jurisdiction.

This writ application is, thus, disposed of in terms indicated hereinabove.

(Rajeev Ranjan Prasad, J)

R.R.OJha/-

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