

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20243 of 2019

=====

M/s Golden Rice Mill Saharsa, through its Proprietor Md. Shamim Alam,
aged about 44 Years (Male) Son of Md. Kadir, Resident of Village Kayasth
Tola, P.S. Saharsa, District-Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Saharsa.
3. The District Certificate Officer, Saharsa.
4. The Bihar State Food and Civil Supplies Corporation Limited, through its Managing Director, Patna Bihar.
5. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Rai Path, R-Block, Road No. 2, Patna Bihar.
6. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, District-Saharsa.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.Nityanand Mishra, Advocate Mr.Amarjeet Prabhakar, Advocate
For the State	:	Mr.Alok Ranjan, AC to AAG-5
For the BSFC	:	Mr.Shailendra Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-10-2019 Heard learned counsel for the petitioner and learned

counsel representing the Bihar State Food and Civil Supplies

Corporation Limited and its authorities.

In the nature of the reliefs prayed in this writ
application, learned counsel for the parties agree that the writ
application may be disposed off on the basis of the materials
available on the record.

It is not in dispute that the Corporation has initiated a



certificate case bearing No. 10 of 2014-15 against the petitioner for realisation of a sum of Rs. 77,58,162/- with interest thereon. It is also not in dispute that after initiation of the said certificate case, in view of the orders of this Court passed in similar matters in L.P.A. No. 1083 of 2017 and C.W.J.C. No. 18316 of 2017 the Certificate Officer cannot take coercive action for recovery of the amount when an Arbitrator has been appointed and the claim of the Corporation is subject matter of the adjudication and determination before the Arbitral Tribunal.

In the present case, the fact that in Request Case No. 158 of 2017 learned sole Arbitrator has been appointed who has also passed an order under Section 17(1) of the Arbitration and Conciliation Act, 1996 on 24.08.2019 directing the Certificate Officer not to take any coercive action against the petitioner during pendency of the arbitration proceeding, is a matter of record and not in dispute. Annexure '7' to the writ application is the order passed by the learned Arbitrator.

Learned counsel for the Corporation does not dispute that in view of the Hon'ble Division Bench judgment of this Court in L.P.A. No. 1083 of 2017 no coercive recovery may be done during pendency of the arbitration proceeding.

In that view of the matter, this Court directs the



Certificate Officer who is in seision of Certificate Case No. 10 of 2014-15 to await the outcome of the arbitration proceeding and no coercive recovery shall be made from the petitioner at this stage.

In view of the order of the learned Arbitrator, the warrant of arrest if any issued shall be recalled by the Certificate Officer.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

vats/ved

U			
---	--	--	--

