

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20334 of 2019

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Pintu Biswas Son of Sri Tushar Kanti Biswas, Resident of Kanki, Basatpur, Kanki, P.S.Chakalia, District- Uttar Dinajpuur (West Bengal), Proprietor of Biswas Rice Mill.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumer Protection Govt. of Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supply Corporation, Patna.
3. The District Magistrate, Kishanganj.
4. The Superintendent of Police, Kishanganj.
5. The District Manager, Bihar State Food and Civil Supply Corporation, District Kishanganj.
6. The Additional Collector-Cum Certificate Officer, Kishanganj.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 19559 of 2019

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Anando Singh Son of Sandhilal Singh, resident of Kandalbari, Tungidighi Balichiar, P.S. Karnagighi, District- Uttar Dinajpuur (West Bengal) proprietor of M/S Ananda Mini Rice Mill.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumer Protection, Govt. of Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supply Corporation, Patna.
3. The District Magistrate, Kishanganj.
4. The Superintendent of Police, Kishanganj.
5. The District Manager, Bihar State Food and Civil Supplies Corporation, District- Kishanganj.
6. The Additional Collector cum Certificate Officer, Kishanganj, Bihar.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 20334 of 2019)

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar, Advocate
For the BSFC	:	Mr. Siddharth Hansh, Advocate
		Mr. Shailendra Kr. Singh, Advocate
For the Respondent/s	:	Mr.U.P. Singh, AC to SC4



(In Civil Writ Jurisdiction Case No. 19559 of 2019)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the BSFC : Mr. Shailendra Kr. Singh, Advocate
For the State : Mr. S. Raza Ahmad (AAG-5)
Mr. Anisul Haque, AC to AAG-5
Mr. Alok Ranjan, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 22-11-2019 Heard learned counsel for the petitioners and

learned counsel representing the Bihar State Food and Civil

Supplies Corporation.

After hearing learned counsel for the parties, both
the writ applications are being disposed off by a common
judgment and order.

It appears that against the writ petitioners earlier a
certificate proceeding was initiated for recovery of certain
amount against the procurement year 2012-13. It is the case
of the petitioners that the certificate proceedings initiated
against them were dropped after it was informed to the
Certificate Officer by the then District Manager of the
Corporation that the petitioner had paid the entire certificate
amount. Later on, another certificate proceeding has been
initiated against the petitioners showing that they are still
liable to pay certain amount to the Corporation. It is the
case of the petitioners that the certificate has been



signed by the District Manager as well as the Certificate Officer.

It is the case of the petitioners that because the District Manager, B.S.F.C. has put his signature in the left hand side of the certificate which is otherwise signed by the Certificate Officer, the certificate proceeding stood vitiated and in view of the judgment of this court in the case of **Badri Prasad Gupta Vs. State of Bihar & Others** reported in **2018 (3) PLJR 218**, the certificate proceeding is liable to be quashed on this ground alone.

Learned counsel however submits that recently an arbitration proceeding has also been initiated at the instance of the petitioners in which the dispute between the petitioners and the Corporation with respect to payability of the amount is under consideration.

Learned counsel for the petitioners has however shown that again on 22.07.2019 a body warrant has been issued against the petitioners.

On the other hand, learned counsel for the Corporation submits that the then District Manager of the Corporation had wrongly issued a no dues certificate in



favour of the petitioners as a result whereof the first certificate proceeding was dropped, even though the petitioners were still liable to pay some substantial amount to the Corporation.

It is submitted that a disciplinary proceeding has been initiated against the District Manager for his alleged acts and omissions. Learned counsel submits that since the certificate has been signed by the Certificate Officer, only because in the left hand side of the certificate the signature of the District Manager of the Corporation is appearing, that would not render the certificate invalid and the judgment of this court in the case of Badri Prasad Gupta (supra) would not be applicable in the facts of this case.

Having heard learned counsel for the parties and on perusal of the records, this court finds that the petitioners have already appeared in the certificate proceeding and they have filed their respective objections before the Certificate Officer. The dispute between the parties is also now subject to an arbitration proceeding. In view of the judgment of this court in LPA No. 1083/2017, LPA No. 1874/2016 and Civil Review No. 150/2015, copies



of which have been enclosed as Annexure '8' series to the writ application, once the dispute is pending before the arbitrator, no coercive action can be taken by the Certificate Officer for realization of the certificate amount. In the present case, even objections filed on behalf of the petitioners are pending consideration so far, therefore despite pendency of the objection, issuance of non-bailable warrant against the petitioner would again be illegal and would be liable to be set-aside.

Learned counsel for the Corporation submits that the execution of the warrant of arrest dated 11.06.2019 has been recalled on 19.06.2019. Thus, as on date no warrant of arrest is pending against the petitioner.

At this stage, the court is of the considered opinion that the order dated 22.07.2019 by which body warrant has been ordered to be issued against the petitioners is liable to be quashed and is accordingly quashed.

The arbitration proceeding is going on and the petitioners, if so advised, may move the learned arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, 1996 for any interim relief during



pendency of the arbitration proceeding.

In view of the judgment of the Hon'ble Division Bench of this court the Certificate Officer is hereby directed not to take any coercive action against the petitioners till hearing of the petition for interim relief before the learned Arbitrator.

Since the issue raised before this court are pending consideration before the Certificate Officer, at this stage the court restrains itself from going into the merit of the contentions.

Both the Writ Applications are disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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