

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10017 of 2020

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Vivek Kumar Singh Son of Ravindra Singh Proprietor of M/s Shree Durga Rice Mill, Lalapur, Kudra, Resident of Village- Kudra, P.S.- Kudra, District- Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Patna, Bihar at Patna.
2. The Food and Consumer Protection Department through its the Principal Secretary, Bihar at Patna.
3. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Office at Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.2, Patna- 800001.
4. The Managing Director, The Bihar State Food and Civil Supplies Corporation Office at Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.2, Patna- 800001.
5. The District Manager, Bihar State Food and Civil Supplies Corporation, District- Kaimur.
6. The District Certificate Officer, Kaimur, District- Kaimur.
7. The Officer In-charge, Kudra, P.S.- Kudra, District- Kaimur (Bhabhua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sumeet Kumar Singh, Adv
For the State	:	Mr. Alok Ranjan AC to AAG-5
For the BSFC	:	Mr. Shailendra Kumar Singh, Adv

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 15-11-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“I. That the present writ application is being filed in the nature of *Certiorari* for quashing the Certificate Case No. 05 of 2015-16 issued by the District Certificate Officer, Kaimur at Bhabhua; on the ground that the certificate at Annexure-2/A and requisition at Annexure-P-2/B is without jurisdiction, violation of fundamental rights, without following the principles of

natural justice, without the matter being decided by the independent body and does not fall under the ambit of Schedule-I of the Public Demand Recovery Act, 1914, the amount is disputed then the proceeding under the PDR is not maintainable;

II. That the present writ application is being filed in the nature of *Certiorari* for quashing the order dated 29.02.2020 passed by the District Certificate Officer, Kaimur at Bhabhua; on the ground that the order passed is without deciding the objection under Section 9 of the PDR Act and thus, it is a non speaking order;

III. That the present writ application is being filed in the nature of *Certiorari* for quashing the bailable warrant issued against the petitioner dated 14.03.2020 issued by the District Certificate Officer, Kaimur at Bhabhua; on the ground that the warrant is within 30 days of the order dated 29.02.2020 which is against the basic guideline issued by the PDR Act, 1914 and also the entire action is without jurisdiction.”

Learned counsel for the petitioner in the presence of learned counsel for the respondents submit that this case is squarely covered by the judgment of this Court dated **27.09.2021** passed in **CWJC No. 907 of 2021 (Ashwini Kumar Gupta Vs. The State of Bihar and Ors)**, and said contention is not disputed by learned counsel for the State and learned counsel for the BSFC, as such present writ petition is disposed of in the same terms. The operative portion of the said judgment reads as follows:-

“Having regard to the facts and circumstances of the case and having heard the learned counsel for the parties, this Court finds that the impugned order dated 29.02.2020 is an unreasoned order which does not show any application of mind and moreover, no succinct, clear or cogent reasons have been furnished for arriving at a decision to reject the objection filed by the petitioner under Section 9 of the Act, 1914, hence the same is not sustainable in the eyes of law, thus is quashed, however, the matter is remanded back to the Certificate Officer,

Kaimur at Bhabua to pass appropriate orders, in accordance with law after considering the objection filed by the petitioner under Section 9 of the Act, 1914. Reference in this connection be had to a judgment rendered by the Hon’ble Apex Court in the case of Oryx Fisheries (P) Ltd. vs. Union of India & Ors. reported in (2010) 13 SCC 427.

The writ petition stands allowed to the aforesaid extent.”

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA