

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1429 of 2021

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Madhu Devi Wife of Sanjay Kumar Jaiswal, proprietor of M/s Sakshi Mini Rice Mill, resident of Village-Akhlaspur, P.S.-Bhabhua, District-Bhabhua currently resident of Resident of-Rajendra Sarowar, Ward No. 11, P.S.-Bhabhua, 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, Bhabhua, P.S. Bhabhua, District-Kaimur (Bhabhua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
For the State	:	Mr. Arvind Ujjwal, SC 4
		Mr. U. P. Singh, AC to SC 4
For BSFC	:	Mr. Anjani Kumar, Sr. Advocate
		Mr. Shalendra Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-11-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

“(i) The present writ application is being
filed in the nature of certiorari for quashing the

Certificate Case No.37 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 P.D.R is not maintainable;

(ii) For quashing the order dated 29.02.2020 passed by the District Magistrate 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) 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.

(iv) For quashing the certificate case No.37 of 2015-16 issued by the District Certificate Officer, Kaimur at Bhabhua; on the ground that the B.S.F.C. has not paid the court fees as the Bihar and Orissa Public Demand Recovery Act,

1914, nor it is a Government, the issue is not decided by the certificate officer, Kaimur at Bhabhua.

(v) For any other relief / reliefs for which the petitioner is entitled for.”

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 **15.09.2021** passed in **CWJC No.326 of 2021 titled as Sarvajeet Kumar Vs. State of Bihar & 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 admittedly the District Certificate Officer, Kaimur at Bhabhua has neither given any clear, cogent or succinct reasons for arriving at a decision to reject the objection of the petitioner, filed under section 9 of the Act, 1914 nor the District Certificate Officer, Kaimur at Bhabhua appears to have applied his mind nor the impugned order dated 29.02.2020 shows any consideration of the objection of the petitioner, which is apparent on the very face of the impugned order dated 29.02.2020, hence, the same is not sustainable in the eyes of law, thus is quashed and the matter is remanded back to the District Certificate Officer, Kaimur at Bhabhua to pass appropriate orders in accordance with law, after consideration of the objection filed by the petitioner under section 9 of the Act, 1914. Reference in this connection be had to a decision of the Hon’ble Apex Court, rendered in the case of Oryx Fisheries Pvt. Ltd. vs. The Union of India & Ors. reported in (2010) 13 SCC 427.

The District Certificate Officer, Kaimur at Bhabhua is warned to be careful in future and not pass such type of unreasoned,illegal and non-est orders, failing which this Court may take appropriate action, in case such type of Orders are brought to the notice of this Court in future.”

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2021
Transmission Date	NA