

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1418 of 2021

=====

Narendra Kumar Singh, Son of Late Mahavir Singh, Proprietor of M/s
Shivam Rice Mill, resident of Village Pokhrera, P.S. Taraiyan, District Saran,
Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
2. Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
3. Bihar State Food and Civil Supplies Corporation through its Managing Director, Bihar at Patna.
4. Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar at Patna.
5. District Manager, Bihar State Food and Civil Supplies Corporation, Saran District Saran at Chapra.
6. District Certificate Officer, Saran District Saran at Chapra.
7. The Officer In-Charge, Taraiyan Police Station, P.S. Taraiyan, District Saran at Chapra.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal, SC-4
		Mr. U. P. Singh, AC to SC-4
For BSFC	:	Mr. Shailendra Kumar Singh, Advocate

=====

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

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-11-2021

The petitioner has prayed for the following relief/s :-



“That the present writ application is being filed in the nature of Certiorari for setting aside the order dated 30.07.2020 (Annexure-6 series) passed in certificate case no. 08/2014-15 by the District Certificate Officer, Saran (Chapra) by which bailable warrant has been issued against the petitioner; on the ground that the award has been passed by the learned arbitrator and the same is to be executed before the Court as defined under Section 2(e) of the Arbitration and Conciliation Act, 1996 and not before the Certificate Officer, Saran, District Saran Chapra.

II. That the present writ application is being filed in the nature of Mandamus for a direction to the Bihar State Food and Civil Supplies Corporation, District Saran Chapra to approach to the appropriate forum to execution of the award passed in Arbitration Case No.01/2018 arising out of Request Case No. 141/2017 for execution of the award dated 14.07.2019 on the ground that the award passed by the arbitrator can only be executed before a competent court which is the District Judge and not the District Certificate Officer.

III. For any other relief/Reliefs for which the petitioner is entitled for.”

Mr. Shailendra Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation, fairly states that the impugned order dated 30th of July, 2020 issued by the Additional Collector, Chapra in Case No.8/14-15/BSFC, Chapra suffers from the vice of non-compliance of the statutory provisions of Bihar and Orissa Public Demands Recovery Act, 1914.

The petitioner had filed objection petition under Section 9 which ought to have been heard and the determination



of issuance of certificate had to be based on the reasons supported by cogent material. Before complying with the provisions of Section 10, the Certificate Officer straightaway proceeded to issue the warrant of arrest as envisaged under Section 15 of the Act.

On the other hand, Shri Sumeet Kumar Singh, learned counsel for the petitioner, states that the officer had no jurisdiction to proceed under the Act referred to (supra), more so, in view of the proceedings already initiated and concluded under the Arbitration and Conciliation Act, 1996, which is now subject matter of adjudication before the appropriate Court (under Section 36 of the Act).

Well, the petitioner can raise all objections and place additional material in support of the objection petition already preferred under section 9 of the Act. As such, we are inclined to accept the prayer made by Mr. Shailendra Kumar Singh, learned counsel for the respondents, and quash the order dated 30.07.2020 (Annexure P-6 series) issued by Additional Collector, Chapra in Case No.8/14-15/BSFC, Chapra.

Ordered accordingly.

We direct the petitioner to appear before the Certificate Officer on 13.12.2021 at 10:30 a.m., when a date and



time would be given, enabling the petitioner to place additional materials in support of the objection petition.

We also direct the officer concerned to decide the objection petition expeditiously and within a period of three months.

Needless to add, the officer shall pass an order assigning reasons which shall be communicated to the petitioner and, should the need so arise, it shall be open for the petitioner/parties to assail the same before an appropriate forum, in accordance with law.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sanjay

AFR/NAFR	
CAV DATE	
Uploading Date	03.12.2021
Transmission Date	

