

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20022 of 2021

=====

Pramod Pandey Son of Rameshwar Pandey Proprietor of M/S Gautam Mini Rice Mil, Lalapur, Kudra, Resident of Village - lalapur, 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

=====

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
For the Respondent/s	:	Mr. S. Raza Ahmad (A.A.G. 5)
		Mr. Shailendra Kumar Singh, Advocate

=====

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

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

2 04-02-2022 Heard learned counsel for the parties.

Petitioner has prayed for following relief(s) :-



I. That the present writ application is being filed in the nature of *Certiorari* for quashing the Certificate Case No. 06 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 doesn't 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. 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 20.02.2020 which is against the basic guideline issued by the PDR Act, 1914 and also the entire action is without jurisdiction.

IV. That the present writ application is being filed in the nature of *Certiorari* for quashing the Certificate Case No.06 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.”

It is admitted at the Bar that this application is squarely covered by a coordinate Bench decision of this Court dated 15.09.2021, rendered in CWJC No. 326 of 2021 (***Sarvajeet Kumar vs. State of Bihar & others***), operative portion of which reads thus :-

“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.”

In this case, similar order rejecting objection of the petitioner under Section 9 of Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter referred to as ‘the Act’) in similar manner are under challenge.

Considering the aforesaid admitted facts, this application is allowed and the impugned order/s rejecting objection of the petitioner under Section 9 of the Act is/are hereby quashed in same terms of this Court’s aforesaid order dated 15.09.2021. The matter is remanded to the District Certificate Officer, Kaimur at Bhabhua, accordingly, to pass appropriate orders in accordance with law, after due consideration of the objections filed by the petitioner under Section 9 of the Act.



Interlocutory application, if any, shall also stand
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/chn

U			
---	--	--	--

