

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4363 of 2023

1. Shashi Shekhar Sinha, Son of Bhupendra Prasad Singh, Resident of Village and P.O. Akbarpur, Police Station- Kahalgaon, District- Bhagalpur Former President of Akbarpur Ranipur Primary Agriculture Credit Co-Operative Society having its office at Akbarpur.
2. Amit Kumar Son of Kumod Prasad, Resident of Village and P.O. Akbarpur, Police Station- Kahalgaon, District- Bhagalpur Former Manager of Akbarpur Ranipur Primary Agriculture Credit Co-Operative Society having its office at Akbarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Cooperative and Consumer Protection, Govt. of Bihar, Patna.
2. The Food Corporation of India through its Regional Manager, Bhagalpur.
3. The Bihar State Food Corporation through its Manager,
4. The District Magistrate, Bhagalpur.
5. The District Co-Operative Officer, Bhagalpur cum Certificate Officer.
6. The District Manager, SFC, Bhagalpur.
7. Parwati Shankar Marketing Officer-cum-Purchase Officer, Kahalgaon Purchase Centre, Kahalgaon, Bhagalpur.
8. The Akbarpur Ranipur Primary Agriculture Credit Co-Operative Society, Akbarpur, Police Station- Kahalgaon, District Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogendra Mishra, Sr. Adv. Ms. Swati Mishra, Adv.
For the F.C.I.	:	Mr. Prabhakar Tekriwal, Adv.
For the B.S.F.C.	:	Mr. Shailendra Kumar Singh, Adv.
For the State	:	Mr. Uday Prasad, AC to GP 22

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 06-04-2023

Learned counsel for the petitioners submit that the petitioners have submitted their objections under Section 9 of the Bihar Public Demands Recovery Act, 1914 (hereinafter



referred to as 'the Act, 1914') and raised objections with regard to the claim raised by the respondents. However, the said objections have not been considered and without adjudicating on the objections, an order has been passed for recovery of the amount and also warrant of arrest has been issued by the authority, vide order dated 11.02.2023, passed in Memo no. 370, by respondent no.5, the District Co-operative Officer, Bhagalpur -cum- Certificate Officer.

Learned counsel appearing for the B.S.F.C. fairly states that the authority ought to have first decided objections raised by the petitioners under Sections 9 and 10 of the Act, 1914 before the issues finally adjudicated.

Having noticed aforesaid submissions, this Court deems it appropriate to direct the concerned authority to decide the objections raised by the petitioners with regard to non-maintainability of the demand by a speaking order.

The petitioners would also be free to challenge the same before the appellate court, that apart it is also held that before any decision is taken on objections made under Section 9 of the Act, 1914, the authority would not be empowered to pass order of recovery and issuance of warrant of arrest. Such warrant having been issued without following the procedure are



nonest.

Accordingly, the impugned order dated 11.02.2023, passed in Memo no. 370, by respondent no.5, the District Co-operative Officer, Bhagalpur -cum- Certificate Officer is quashed and set aside with a direction to the concerned authority to decide the objections raised by the petitioners within a reasonable time by speaking order.

As such, the present writ petition is allowed.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 25

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.04.2023
Transmission Date	NA

