

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16880 of 2022**

Shivani Agro Foods Pvt. Ltd. a registered company under the provisions of the Companies Act, 1956, having its registered office and Rice Mill at Natwar, District- Rohtas (Bihar) through its Director Smt. Radha Devi, Female, aged about 50 years, wife of Sri Anil Kumar, resident of Village- Natwar Kala, PS Natwar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Bihar State Food and Civil Supplies Corporation Limited, having its registered office at Khadya Bhawan, R Block, Daroga Prasad Rai Path Road No. 2, Patna, Bihar- 800001, through its Managing Director.
3. The Deputy General Manager Procurement, The Bihar State Food and Civil Supplies Corporation Limited, having its registered office at Khadya Bhawan, R Block, Daroga Prasad Rai Path Road No. 2, Patna, Bihar- 800001,
4. The District Manager, The Bihar State Food and Civil Supplies Corporation Limited, Block cum Circle Office, Rohtas at Sasaram.
5. The District Magistrate cum Collector, Rohtas at Sasaram.

... .. Respondent/s

**Appearance :**

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|----------------------|---|-----------------------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Jitender Singh, Sr. Adv.,<br>Ms. Prachi Pallavi, Adv.,<br>Mr. Satyabir Bharti, Adv.,<br>Ms. Kanupriya, Adv. |
| For the State        | : | Mr. U.P. Singh, AC to SC-4                                                                                      |
| For the B.S.F.C.     | : | Mr. Shailendra Kumar Singh, Adv.                                                                                |

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

ORAL ORDER

3      28-03-2023

1. Heard the parties.

2. The petitioner by way of this writ petition prays as

under:-

*“1. (i) Issuance of a writ of certiorari, quashing the part of the notice dated 22.11.2021, as contained in Memo no. 1696, issued under the signature of the*



*respondent no. 5, namely the District Magistrate, Rohtas, Sasaram, by which the registration/tagging of the petitioner as a Rice Miller has been refused on the ground that the husband of the director of the petitioner company is in arrears of a sum of Rs. 1,98,12,439.71, payable to the respondent no. 2, namely the Bihar State Food & Civil Supplies Corporation Limited;*

*(ii) Issuance of a writ of mandamus, directing the respondents to consider and enlist/register and execute an agreement with the petitioner, in pursuance to the Notice dated 12.10.2022, issued by the Respondents for the Kharif Marketing Season 2022-23, under the decentralized Paddy Procurement and Rice Milling programme of the Government:*

*(iii) To pass such other order(s), direction(s) as your Lordships may deem fit and proper in the facts and circumstances of the case.”*

3. A short conspectus of the entire case is that the petitioner's Company is incorporated under the Companies Act, 1956, where one of the Director happens to be the wife of one Anil Kumar, who was earlier engaged in business of rice milling as a proprietor of M/s Ganesh Galla Bhandar, which was a lessee of Laxhman Jee Rice Mill. Therein an F.I.R. registered against the husband of the Director of the present Company of



having lifted 53,000 quintals of paddy and having given back only 38,000 quintals of milled rice. The Company has been, therefore, denied to be registered/ tagged as a rice miller.

4. Learned Senior Counsel for the petitioner submits that the Company has a separate entity and merely because one of his Director happens to be wife of a defaulter, the Company can not be treated as a defaulter and cannot be denied registration/ tagging as a rice miller. It is further submitted that the husband of one of the Directors of the Company Anil Kumar had filed **C.W.J.C. No. 2419 of 2013 (M/s Ganesh Galla Bhandhar Lessee Laxshman Jee Rice Mill Vrs. The State of Bihar & Ors.)** before this Court, challenging the P.D.R. proceedings initiating against his Firm.

5. This Court relying upon the Judgment passed in **C.W.J.C. No. 13746 of 2013 (Sone Valley Rice Mill Vrs. The State of Bihar & Ors.)**, decided on 20<sup>th</sup> July, 2014, allowed the writ petition and quashed the recovery proceedings permitting the Corporation to take any other recourse against the petitioner, as may be permissible in Law.

6. Learned counsel further pointed out that the Judgment passed in Sone Valley Rice Mill (supra) was challenged in **L.P.A. No. 1576 of 2014 (The Bihar State Food**



**and Civil Supplies Corporation & Anr. Vrs. Sone Valley Rice Mill & Ors.)** and the same was allowed vide Judgment dated 20<sup>th</sup> May, 2016 and S.L.P. has been preferred to Supreme Court bearing **S.L.P (C) No(s). 16909 of 2016**, wherein interim order was passed on 15<sup>th</sup> July, 2016, restraining the respondents, not to take coercive steps for recovery of the dues.

7. Keeping in view thereto, he submits that no recovery proceedings could have been taken against the Director husband Anil Kumar. However, by way of the present action, the Company is being faced with coercive steps, which could not have been done.

8. Per contra, learned counsel appearing for the B.S.F.C. Corporation submits that a huge amount in crores is due as against one of the Directors husband. It is also stated that the husband of the Director of the Company was earlier one of the Director of the present Company and thus, the present Company is liable for the arrears due against the husband of one of the Directors. It is also stated that other Directors are brother and his wife of the said Company.

9. I have considered the submission, the registration/ tagging of a rice miller is with the purpose to allow the said Firm/ Company to receive paddy and supply customed mill rice



to the Corporation. The procurement of paddy is of course from the various Cooperative Societies (PACS). For the said purpose the Corporation is required to register the Company/Firms, who are engaged in such business. Denying registration/ tagging, therefore, amounts to dis-allowing a particular Firm or Company to engage in such business, which can only be done on reasonable grounds, otherwise the same would amount to violation of Article 19 (1)(G) of the Constitution of India. Having noticed above, the question arises whether the de-tagging action is on reasonable grounds. A Company registered under the Act has a separate entity in Law. If any individual Director is found to be engaged in any corrupt practice, the course adopted under the Companies Act is to remove such a Director from the Company. If there is any recovery or dues as against the family member of a Director, including husband, the Company can not be held to be liable and the Law does not allow the concerned person to take up recovery proceedings against the Company merely on account of one of the Director being individually or any his/her family member being liable for recovery for any dues. It is also to be noticed that the Director of a Company may also be a Director of another Company. In such events, even if one Company is found to be a



defaulter, another Company would not become a defaulter automatically.

10. Keeping in view above, the action of the respondents is held to be wanting and contrary to Law. Accordingly, this writ petition is allowed. The order dated 20.02.2021, passed by the respondents refusing to register/ tag the petitioner's Company is held to be unreasonable and unjustified.

11. The respondents shall now proceed to allow registration/ tagging of the petitioner's Company in future transactions.

12. The writ petition is allowed to the aforesaid extent. No costs.

**(Sanjeev Prakash Sharma, J)**

Pravinkumar/-

Item No. 31

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