

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16521 of 2016**

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Sunil Kumar Son of Late Mahendra Prasad Chaudhary Director of M.P. Agro Ventures Private Limited resident of Mohalla - Chauharana Road, P.S. Danapur, District - Patna

... .. Petitioner/s

Versus

1. The Principal Secretary, Food And Consumer Protection Department , Bihar at Patna
2. The State of Bihar through District Magistrate, District Patna
3. The Bihar State Food and Civil Supplies Corporation Limited through its M.D., Bihar at Patna
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Patna, District Patna
5. The Sub - Divisional Officer - Cum - District Certificate officer, Danapur, District Patna
6. The Food Corporation of India, through its Managing Director, New Delhi

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                                |
|----------------------|---|--------------------------------------------------------------------------------|
| For the Petitioner/s | : | M/s Sumeet Kumar Singh,<br>Shivam Singh<br>Kumar Vikram, Alka Singh, Advocates |
| For the State        | : | Mr. Arvind Ujwal, SC 4                                                         |
| For the BSFC         | : | M/s Shailendra Kumar Singh<br>Utkarsh Bhushan, Utkarsh Utpal, Advocates        |

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY**  
**ORAL JUDGMENT**  
**Date : 07-10-2024**

1. The petitioner has filed the instant application  
for the following reliefs:

*“I. That the present writ  
application is being filed for issuance of an  
appropriate writ order/ direction(s)in the  
nature of Certiorari for quashing the*



*certificate case no- 15 of 2014-2015 which has been initiated against the petitioner on the basis certificate which forms part of section -7 notice is contrary to the statutory rules of Public Demand Recovery Act, 1914(herein after referred as "P.D.R.Act, 1914" for the sake of brevity) as there is no form-1 of the schedule which has been given to the petitioner by the certificate Officer, Danapur, not properly filled which is evident from Annexure-6, 6/A to this writ application thus amount to defective notice and defective initiation of the certificate case;*

*II. For issuance of an appropriate writ order/ direction(s)in the nature of Certiorari for setting aside the certificate notice bearing certificate case no- 15 of 2014-15 as the same is issued by the respondent no-5 under section-7 of the Public demand recovery act by which it is asked to pay amount on the ground that the process is*



*not followed properly by the Bihar State Food and Civil Supplies Corporation, Patna( herein after referred as "B.S.F.C" for the sake of brevity) in serving the notice; on the ground that there is no requisites given to the petitioner as evident from different annexures which is violation of principles of natural justice;*

*III. For issuance of an appropriate writ order/ direction(s)in the nature of Certiorari for setting aside the certificate notice bearing certificate case no- 15 of 2014-15 as the requisites has not been filed by the B.S.F.C before the certificate officer nor the same has been handed over to the petitioner by the certificate officer, Danapur, Patna which is evident from different Annexures to the writ application:*

*IV. That the present writ application is being filed for issuance of an appropriate writ order/ direction(s)in the*



*nature of Certiorari for quashing the certificate case no-15 2014-2015 which has been initiated against the petitioner on the basis that the court fees has not been paid by the B.S.F.C while instituting the case before the Certificate Officer, Danapur and the limitation will apply in the present case;*

*V. And for issuance of any other relief or relief(s) for which the petitioner is entitled for.”*

2. At the outset, Learned counsel for petitioner contended that since this matter is squarely covered under the order dated 01.10.2024 passed in **CWJC No. 7365 of 2016 (Ashok Prasad Versus The State of Bihar & Ors.)** and order dated 11.07.2024 passed in **CWJC No. 9221 of 2016 (Raju Gupta Versus The State of Bihar & Ors.)**, this writ petition may also be disposed of on the same term and conditions. Learned counsel for the petitioner further draws attention of this Court on a judgment passed by a Division Bench of this Court in **Nageshwar Prasad Singh**



**Vs. Rai Bahadur Kashinath Singh (1958 BLJR 820).** As regards the effect of a defective Certificate on the validity of the Certificate proceeding, the Division Bench of this Court in **Nageshwar Prasad Singh (supra)** has observed as follows:

*“The Certificate-Officer must meticulously apply his mind to filing the Certificate and filling in the columns and blanks correctly and in appending his Certificate in the form prescribed, and that the filling in of the forms is a matter of substance and is imperative, to give the Certificate the force of a decree of court of law, and if it is found that the Certificate-Officer had not applied his mind at all and that some of the blank spaces were not filled up, or were incorrectly filled up, the document so prepared and filed is not a Certificate under the Public Demands Recovery Act. The Certificate proceedings are wholly invalid and the officer concerned*



*acts without jurisdiction”*

3. Heard the Learned counsel for the petitioner as well as the respondents.

4. In view of the fact that this matter is squarely covered by the aforesaid judgments, in the totality of the circumstances, I am of the opinion that the Certificate issued in Form No. 1 signed by the District Manager of the BSFC and the Certificate Officer in the manner aforesaid is held to be invalid and is hereby quashed along with the notice under Section 7 of the Act issued in pursuance thereof. The matter is remitted to the Certificate Officer, Patna for issuance of a fresh Certificate as well as the notice under Section 7 of the Act and thereafter to proceed in the matter in accordance with law.

5. It is made clear that in the meantime, the Certificate Officer, Patna, shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 15 of 2014-15.

6. With the aforesaid observations, this writ petition stands disposed of in light of the judgment passed in, **Ashok Prasad, Raju Gupta and Nageshwar Prasad**



**Singh (supra).**

7. Interlocutory Application(s), if any, shall stand disposed of.

**(G. Anupama Chakravarthy, J)**

Spd/-

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| AFR/NAFR          | NAFR       |
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