

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20477 of 2016

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Madan Prasad Arya Son of Late Badari Prasad. Resident of Old Bazar, P.S.-
Shikarpur, District-West Champaran, Proprietor of M/S Ganesh Rice Mill,
Narakatia ganj, west Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Food and Civil Supply,
Patna
2. The District Magistrate, West Chamaran, Bettiah.
3. The superintendent of Police, West Champaran, Bettiah.
4. The Certificate Officer, West Champaran, Bettiah.
5. The Deputy Superintendent of Police, West Champaran, Bettiah.
6. The District Manager, Bihar State Food and Civil Supply Corporation, West
Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Advocate
For the State	:	Mr. S.Raza Ahmad-AAG 5
For the BSFC	:	M/s Shailendra Kumar Singh Utkarsh Utpal, Advocates

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 20-12-2024

1. The petitioner has filed the writ
petitioner for the following reliefs:

*“(i) For issuance of an appropriate writ order/
direction in the nature of certiorari for
quashing the Certificate Case no. 27 of 2013-
14 which has been initiated against the
petitioner on the basis of certificate which
forms part of section -7 notice is contrary to
the statutory rules of Public Demand Recovery
Act, 1914 (herein after referred as PDR Act) as*



it is blank at many column, which is evident from notice attached in Annexure-9 to this writ application thus amount to defective notice and defective initiation of the Certificate case.

(ii) For issuance of writ in the nature of certiorari for quashing the Certificate case no. 27 of 2013-14 which has been initiated against the petitioner under Section 7 of the Public Demand Recovery Act on the ground that the process is not followed properly by the Bihar State Food and Civil Supplies Corporation (herein after referred as BSFC for the sake of brevity) in serving the notice, as the Form no. 1 has not been properly made & without date and Form 1 & 2 has been prepared by the same authority and blank and Certificate notice is issued without application of independent mind and without proper verification and therefore it is violation of the fundamental right of the petitioner.

(iii) For issuance of writ in the nature of certiorari for quashing the Certificate Case no. 27 of 2013-14 which has been initiated against the petitioner under the Public Demand Recovery Act on the ground that disputed amount cannot be recover through the Certificate proceeding and settlement of Arbitration proceeding.



(iv) For issuance of writ in the nature of certiorari for quashing the order dated 10.3.2016 passed in Certificate case no. 27 of 2013- 14 on the ground that the same is without the proper certificate or requisition under the Public Demand Recovery Act, 1914 and thus the whole process is without jurisdiction.

(v) For issuance of an appropriate writ order/directions in the nature of certiorari for quashing the final order dated 10.3.2016 passed in Certificate case no. 27 of 2013-14 on the ground that the objection filed by the petitioner is pending and not finally disposed off it is statutory right given under the Act.

(vi) For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the final order dated 10.3.2016 passed in certificate case no. 27 of 2013-14 on the ground that the same is passed without following the principles of natural justice.

(vii) For the other reliefs which may be granted to the petitioner in the facts and circumstances of this case..

2. At the outset, Learned counsel for petitioner contended that since this matter is squarely



covered under the under the judgment passed by this Court in **CWJC No. 11206 of 2016 (Badri Prasad Gupta Versus The State of Bihar & Ors.)** reported in **2018(3) PLJR 218**, this writ petition may also be disposed of on the same term and conditions.

3. Learned counsel for the respondents submits that this Court has disposed of similar matters which are squarely covered under the order dated 11.07.2024 passed in **CWJC No. 9221 of 2016 (Raju Gupta Versus The State of Bihar & Ors.)**, and some judgments passed by Division Bench of this Court as well as by Hon'ble Supreme Court i.e. judgment dated 18.10.2023 passed in **L.P.A. No. 1643 of 2019 (Pintu Biswas Versus the State of Bihar & Ors)**, Judgment dated 10.10.2017 passed in **LPA NO. 1373 of 2017 (Ram Niwas Sharma Vs. The Food and Consumer Protection Department & Ors.)**, and a judgment passed by Hon'ble Supreme Court of India in **Civil Appeals Nos. 471 of 1975 (State of Karnataka Vs. Shree Rameshwara Rice Mills, Thirthahalli)**.



Learned counsel for the respondents 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”

4. Heard the learned counsel for the petitioner as well as the respondents.

5. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ application is allowed in light of the judgment passed in **Badri Prasad Gupta (supra)** and the Certificate Case No. 27 of 2013-14 is quashed. It will be open to the respondents to proceed afresh in the certificate proceedings, if permissible under the law.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.01.2025
Transmission Date	

