

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13823 of 2016

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Kishori Prasad Son of Krishna Prasad, Proprietor of M/s K.P. Gupta Rice Mill, Madhuabani resident of village - Madhopur, Maner, P.O. Madhopur, Maner, P.S. Maner, 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 Madhubani
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, Madhubani, District Madhubani
5. The District Certificate Officer, Madhubani, District Madhubani

... .. Respondent/s

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Appearance :

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For the Petitioner/s	:	M/s Sumeet Kumar Singh Shivam Singh Kumar Vikram Alka Singh, Advocates
For the Respondent/s	:	Mr. Arvind Ujwal, SC 4
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 : 13-12-2024

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-03 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 it is blank at many column, not properly made, signed twice which is evident from the notice attached in Annexure-6, 6/A and 6/B, to this writ application thus amount to defective notice and defective initiation of the Certificate case

II. 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 of the Certificate case no- 03 of 2014-2015 which has been initiated against the petitioner under Section 7 of the Public demand recovery act by which it is asked to pay amount of Rs. 25,84,750.30/- ; 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 without following the mandatory process as the for no-1 has not been sent properly mad, not signed, blank which proves that no independent application of mind is there, not filed properly, not verified which is in violatin of the fundamental rights



of the petitioner;

III. 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 entire ordersheet as the warrant dated 10.10.2015 without passing the final order which is in violation of the P.D.R.Act, 1914;

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 warrant of arrest dated 10.10.2015 passed in Certificate Case no. 03 of 2014-15; on the ground that the same is without passing the final order and also on the ground that the whole process is without jurisdiction as no mandatory requirement has been followed violating the fundamental rights of the petitioner:

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 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, Madhubani 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, Madhubani, shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 03 of 2014-15.

6. With the aforesaid observations, this writ



petition stands disposed of in light of the judgment passed
in **Raju Gupta and Nageshwar Prasad Singh (supra)**.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2024
Transmission Date	NA

