

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11798 of 2016

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1. Arun Kumar Sharma, Son of Mithlesh Kumar Sharma Then C.O. -cum-Incharge Procurement Centre, Katrisarai resident of Village- Lal Bigha, P.S. Kavarisarai District Nalanda.
 2. Jyoti Kumari Daughter of Panna Lal then Executive Assistant Katrisarai, Purchase Centre, District Nalanda , resident of Village- Yogipur, P.S Hilsa District Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through District Magistrate, District Nalanda
2. The Bihar State Food and Civil Supplies Corporation Limited through its M.D. Bihar at Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Nalanda District Nalanda, District Nalanda
4. The District Certificate officer, Nalanda District Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Sumeet Kumar Singh Shivam Singh Kumar Vikram Alka Singh, Advocates
For the State	:	Vikash Jha, AC to GA 9
For the BSFC	:	M/s Shailendra Kumar Singh Utkarsh Utpal, Advocates

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 28-10-2024

1. The petitioners have filed the instant application for the following reliefs:

“1. 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. 40 of 2013-2014 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 signed by the District Manager, Nalanda as well, blank at many places which is evident from the Annexure-6, 6/A, 6/B 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 case bearing Certificate Case No. 40 of 2013-2014 as the same is issued by the respondent no-4 under 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, Rohtas at Sasaram(herein after referred as "B.S.F.C" for the sake of brevity) as no proper notice under section-7 served to the petitioner and the same has been issued without following the due process of law and without following the mandatory provisions of law which is in violation of the fundamental rights of the petitioner as evident from the Annexure-7 to the writ application;

III. For issuance of an appropriate writ order/ direction(s)in the nature of Certiorari for setting aside the certificate case bearing Certificate Case No. 40 of 2013-2014 as the same



is issued by the respondent no-4 under the Public demand recovery act by which it is asked to pay amount on the ground that there is no written instrument for therecovery of the money under the P.D.R.Act, 1914 and also it doesnot come under the purview of the schedule-1 of the P.D.R.Act, 1914

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

2. At the outset, Learned counsel for petitioners 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.)**, this writ petition may also be disposed of on the same term and conditions. Learned counsel for the petitioners 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 petitioners 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, Nalanda 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, Nalanda, shall not resort to any coercive action for recovery of the dues against the petitioners in



Certificate Case No. 40 of 2013-2014.

6. With the aforesaid observations, this writ petition stands disposed of in light of the judgment passed in **Ashok Prasad 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	28.10.2024
Transmission Date	

