

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6985 of 2016

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Abinash Kumar son of Umesh Prasad Partner of M/s Grand Rice Mill,
resident of village- Sarai, Nagar Panchayat, P.S.- Maner, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through District Magistrate, District Patna
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, Patna, District- Patna
4. The District Certificate Officer, Paliganj, District- Patna

... .. Respondent/s

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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

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

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-215 2014-2015 which has been initiated against the petitioner on the basis certificate which forms part of section -7 notice is not present under the 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, Paliganj and also there is no proper notice under section-7 of the P.D.R.Act, 1914, no proper requisition filed by the certificate creditor which is statuary while issuing the notice to the petitioner which is evident from Annexure-6 series 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-215 of 2014 as the same is issued by the respondent no-4 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 proper requisition filed before the certificate officer nor the certificate officer has served the notice under section-7 of the P.D.R Act properly as it is blank, there is no certificate under the prescribed format to the petitioner;

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-215 of 2014 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, Paliganj, Patna which is evident from Annexure- to the writ application;

IV. For issuance of an appropriate writ order/ direction(s) in the nature of Certiorari for setting aside the order dated 3.2.2016 and warrant of arrest which has been issued by the District Officer, Officer, Paliganj, Patna vide order dated 12.3.2016 respectively in Certificate Case No-215 of 2014; on the ground that final order and the warrant 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 and further the principles of natural justice has not been followed;

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 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.)**, 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, Paliganj, 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, Paliganj, Patna, shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No-215 of 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	

