

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4317 of 2016

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M/s Shiv Shakti Mini Rice Mill S/o Sri Amulya Biswas r/o Bidhanpally, P.S.
Chakulia, District - Uttar Dinajpur West Bengal

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Food and Consumer Protection Department, Govt. of Bihar, Patna
3. The Managing Director, Bihar State Food and Civil Supply Corporation, Bihar, Patna
4. The District Magistrate Cum Collector, Kishanganj
5. The District Magistrate, Uttar Dinajpur (West Bengal)
6. The Certificate officer, Kishanganj
7. The District Manager, Bihar State Food and Civil Supply Corporation, Kishanganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Sinha
For the State	:	Mr. Neelam Kumari, AC to SC 3
For the BSFC	:	Mr. Shailendra Kumar Singh
		Mr. Utkarsh, Advocates

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 16-12-2024

The petitioner has filed the writ petitioner

for the following reliefs:

“For issuance of an appropriate writ and / or order/direction to quash the Certificate Case No. 16 of 2014-15 pending in the Court of the Certificate Officer, Kishanganj. The petitioner further seeks quashing of the notice dated 04.08.2014 issued under Section 7 of the Bihar & Orissa Public



Demands Recovery Act, 1914 (hereinafter referred to as the Act) by the Certificate Officer, Kishanganj for the recovery of Rs. 7447644.53. The Petitioner further seeks for quashing of all subsequent order in the aforesaid Certificate Case after issuance of the notice dated 04.08.2004.

2. The petitioner has further filed I.A. No. 5497 of 2017 for the following reliefs in addition to the reliefs sought for in the writ application as during pendency of the writ petition, which was allowed vide order dated 31.01.2018.

“(i) For issuance of appropriate Writ for the direction to the respondents to stay the operation of the order dated 30.06.2017 passed in Certificate Case No. 16 of 2014-15 by which the Certificate Officer has directed to again issue warrant of attachment of the property against the petitioner.

(ii) For issuance of appropriate Writ for staying of the further proceeding of the Certificate Case No. 16 of 2014-15 pending in the Court of Certificate Officer, Kishanganj till the pendency of the Writ application.

(iii) Other relief for which the petitioner is



found entitled in the facts and circumstances of the case.”

3. The petitioner, thereafter, also filed supplementary affidavit in the writ application for adding the following reliefs in addition to the reliefs sought for in the Writ application as well as Interlocutory Application.

“i. For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the Certificate Case no. 16 of 2014-15 which has been initiated against the petitioner on the basis of certificate (form-1) which form part of section -7 notice is contrary to the statutory rules of Public demand Recovery Act, 1914 (herein after referred as PDR Act for the sake of brevity) as it is blank at many column, not properly made, signed by the District Manager and not served upon the petitioner 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. 16 of 2014-15 which has been initiated against the petitioner under section 7 of the



Public Demand Recovery Act 1914 on the ground that the process is not followed properly by the respondents in serving the notice, without following the mandatory process as the Form-1 has been signed by the District Manager which proves that no independent application of mind is there, not properly verified which is in violation of the fundamental rights of the petitioner.

iii. For issuance of writ in the nature of certiorari for quashing the Certificate Case no. 16 of 2014-15 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.

iv. For issuance of an appropriate writ order/direction in the nature of certiorari for quashing the order of Attachment (Kurki Jabti)/ warrant dated 29.1.2016 and 30.6.2017 passed in certificate case no. 16 of 2014-15 on the ground that the same are issued without following mandatory requirement under the Act and hearing the petitioner, blank at many place which is violating the fundamental rights of the petitioner.”

4. Learned counsel for the petitioner



contended that this matter is squarely covered under the judgment dated 18.10.2023 passed in **LPA No. 1643 of 2019** in **CWJC Case No. 20334 of 2019 (Pintu Biswas Versus The State of Bihar & Ors.)** by the Division Bench of this Court.

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

6. In view of the fact that this matter is squarely covered by the aforesaid judgment, in the totality of the circumstances, I am of the opinion that the certificate proceeding passed in Certificate Case No. 16 of 2014-15 has to be set aside and I do so. I find the certificate proceedings itself to be vitiated and set aside the same. I make it clear that I have not made any observation with respect to the award made by the Arbitral Tribunal which if challenged in appropriate proceedings, would be considered in accordance with law, untrammelled by the setting aside of the certificate proceedings, which is only on the non-compliance of the form and procedure and not on the quantification of



the liability.

7. With the aforesaid observations, this Writ petition stands disposed of in light of the judgment passed in **Pintu Biswas (supra)**.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2024
Transmission Date	

