

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7808 of 2016

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Devendra Yadav son of Talkeshwar Yadav Chairman of M/s Cherki Prathamik
Krishi Sakh Sahyog Samiti, resident of village - Cherki, P.S. - Sherghati,
District - Gaya.

... .. Petitioner

Versus

1. The State Of Bihar through District Magistrate, District- Gaya.
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, Gaya, District – Gaya.
4. The District Certificate Officer, Gaya, District - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Sumeet Kumar Singh, Advocate
	:	Mr. Shivam Singh, Advocate
For the Respondents	:	Mr. Manikant Mishra, GP25
For the BSFC	:	Mr. Shailendra Kr. Singh, Advocate
	:	Mr. Utkarsha Utpal, Advocate
For the State	:	Mr. Nawal Kishore Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 25-10-2024

1. This Writ petition is filed for quashing the

Certificate Case No. 05/2015-16 which was initiated

against the petitioner, contrary to the statutory rules of

Public Demand Recovery Act, 1914.

2. The brief facts culled out of the Writ petition is

that the petitioner is a Rice miller, running the business of

rice and is also engaged in various related business

activities. It is alleged that B.S.F.C. was designated as the



Nodal Agency for procurement of paddy and rice for *Kharif* Marketing Season, 2013-14 and the B.S.F.C. along with the Primary Agriculture Credit Societies (hereinafter referred to as P.A.C.S.), were authorized as procuring agencies for procurement of paddy. The action plan had laid down the guidelines which are to be followed by the respondent authorities. It was specifically mentioned in the action plan that the B.S.F.C. has the responsibility of securing the availability of storage centres and at the same time, it is the duty of the Officer to be present at the mill, to make sure that the final rice, after milling, is sent to the *godown* of Food Corporation of India and it was the sole responsibility of the District Magistrate to make sure that the target of procurement is achieved in this process.

3. The petitioner entered into the agreement for the year 2013-2014 with the B.S.F.C./respondent No. 3, but the Food Corporation of India *godown* has the problem of insufficient space. As per the Clause 3 of the agreement, the Second milling party i.e. the petitioner has to furnish Bank guarantee. As per the Clause 5 of the



agreement, after receipt of the paddy, the second party has to deliver proportionate percentage of rice within a month from the date of receipt of the paddy. Later, the paddy has to be delivered to B.S.F.C. and if there is any delay, appropriate penalty would also be charged.

4. Clause 10 of the agreement disclose that rice was to be transported by the B.S.F.C. to the tagged depot of Food Corporation of India godown, then only the paddy from different procurement centres would be released by the B.S.F.C. to the rice miller.

5. The District Certificate Officer, Gaya issued notice under Section 7 of the Public Demand Recovery Act bearing Certificate Case No. 07-2014-15 and directed the petitioner to pay an amount of 53,44,767/-, otherwise the property of the petitioner would be auctioned for recovery of the due amount under the Public Demand Recovery Act. The petitioner challenged the notice issued by the District Certificate Officer, Gaya as it was illegal and arbitrary in nature.



6. The present Writ petition is also filed for the quashing of the notice of the District Certificate Officer, Gaya and also for warrant of arrest dated 05.07.2015 issued by the Certificate Officer.

7. A detailed counter affidavit was filed on behalf of the respondent Nos. 1 and 4. The counter affidavit disclose that the petitioner is a rice mill owner and was entrusted the job of processing the paddy. But the Writ petitioner, inspite of receipt of the paddy from the 3rd respondent failed to return the processed rice and thereby the 3rd respondent filed the Certificate Case in Form I and II along with the copy of agreement entered between the petitioner and the 3rd respondent. Further, the 4th respondent being satisfied with the demand has issued a Certificate by signing Form No. I on 21.04.2015 and issued notice under Section 7, inviting objections, if any from the Writ petitioner. The counter further disclose that the petitioner, inspite of receiving the notice failed to appear and objections were not filed under Section 9 of the Public Demand Recovery Act. As a result, the 4th



respondent issued a warrant of arrest dated 08.07.2015 against the petitioner. The counter further disclose that the petitioner is not entitled for any relief, as he did not appear before the Authority, inspite of notice, for which the respondent was constrained to issue the Warrant of arrest and without availing the right of filing the objections, the petitioner straightway approached this Court. The counter affidavit filed on behalf of respondent Nos. 2 and 3 is also in the same lines.

8. Heard the Leaned counsel for the petitioner and the Learned counsel for the respondents. Perused the records.

9. On perusal of the records, it is evident that respondents have issued notice under Section 7 of the Public Demand and Recovery Act, 1914 to the petitioner. Inspite of receiving the notice, the petitioner did not appear before the District Certificate Officer, Gaya and has not made any effort to file objections under Section 9 of the Public Demand Recovery Act, therefore, the



District Certificate Officer, Gaya was constrained to issue the warrant of arrest.

10. As far as the warrant of arrest is concerned, this Court have granted stay orders *vide* order dated 12.05.2016, staying all further proceedings in Certificate Case No. 5/2015/16 including the warrant of arrest, pending before the District Certificate Officer, Gaya and further directed the District Certificate Officer, Gaya not take any coercive steps against the petitioner till the disposal of the proceedings.

11. This Court is of the considerable view that the petitioner shall appear before the District Certificate Officer, Gaya and shall file his objection under Section 9 of the Public Demand Recovery Act, which shall be accepted by the District Certificate Officer and in turn, the District Certificate Officer, Gaya shall pass appropriate orders under Section 10 of the Public Demand Recovery Act.

12. The entire process shall be completed within three months from the date of filing of the objections.



Further, the petitioner shall appear along with the copy of order of this Court, before the District Certificate Officer, Gaya within 15 days from the date of receipt of the order.

13. With the abovesaid observations, the Writ petition stands disposed of.

14. Interlocutory application(s), if any, shall also stands disposed of.

(G. Anupama Chakravarthy, J)

Shanu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.10.2024.
Transmission Date	NA

