

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10162 of 2015

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Harendra Kumar Son of Late Brahamdeo Singh, Resident of Fatehpur, P.S.-
Karai Parsurai, District- Nalanda, Proprietor of Makarouta Pacts Rice Mill,
Fatehpur, Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
3. The Managing Director, Bihar State Food and Civil Supply Corporation, Sone Bhawan, Bir Chand Patel Path, Patna
4. The Deputy Chief Claim, The Bihar State Food and Civil Supply Corporation, Patna.
5. The District Magistrate, Nalanda.
6. The District Manager, Bihar State Food and Civil Supply Corporation, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Advocate
For the State	:	Mr. Prabhat Kumar, AC to GA 11
For the BSFC	:	M/s Shailendra Kr. Singh, Uttkarsha Utpal, Advocates

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY
ORAL JUDGMENT
Date : 02-05-2024**

The petitioner has filed the writ petitioner for the
following reliefs:

“(i) For issuance of writ of mandamus
commanding upon the respondents to lift the
remaining quantity of CMR which is the out come of
the paddy supplied by the Respondent no.6.

(ii) For issuance of writ in the nature
of mandamus for direction to the respondents to pay
the milling charge of the paddy which is done by the



petitioner in pursuant to the agreement with B.S.F.C. Ltd.

(iii) For issuance of writ of mandamus directing the Respondent authorities for the payment of Transportation cost which is done by the petitioner on a verbal order of the Respondent authorities for depositing the CMR in the Godown of the Corporation / FCI and handling cost.

(iv) For the other relief / reliefs for which petitioner is found entitle in the facts and circumstances of the case.”

2. The petitioner has further filed I.A. No. 2588 of 2016 for the following reliefs in addition to the reliefs sought for in the writ application as during pendency of the writ petition, the respondent authorities has lodged certificate case against the petitioner for the recovery of an amount against the CMR which is not lifted from the mill of petitioner by the respondent authorities and the certificate officer issued certificate notice to the petitioner:

“(i) For issuance of writ of certiorari for quashing the order dated 14.1.2016 passed by Certificate officer, Nalanda in Certificate Case No. 21 of 2014-15 by which the Certificate Officer has been pleased to reject the objection petition of the petitioner and also issued Warrant against the petitioner.

(ii) For issuance of writ of certiorari for quashing the notice as well as entire proceeding



of the certificate Case no. 21/2014-15 which is instituted against the petitioner on the instance of the respondent no. 6 for the recovery of the alleged amount.

iii) For the issuance of appropriate writ for the stay of the operation of the order dated 14.1.2016 passed by respondent Certificate Officer whereby and where under issued B/W against the petitioner also stay the further proceeding of the Certificate proceeding no.21/2014-15.

(iv) For permitting the petitioner to add Certificate Officer, Nalanda to add as Respondent no. 7 in the writ petition.

(v) For the other reliefs which may be granted to the petitioner in the facts and circumstances of this case.”

3. The petitioner, thereafter, also filed I.A. No. 3246 of 2016 in the writ application for following reliefs in addition to the reliefs sought for in the writ application as well as I.A. No. 2588 of 2016:

(i) For issuance of writ of certiorari for quashing the order dated 4.4.2016 passed by Certificate officer, Nalanda in Certificate Case No. 21 of 2014-15 by which he has been issued B/W against the petitioner on the instruction of respondent no.6.

(ii) For the issuance of appropriate writ for the stay of the order dated 04.04.2016 passed by respondent Certificate officer whereby and where



under issued B/W against the petitioner.

(iii) For the other reliefs which may be granted to the petitioner in the facts and circumstances of this case.”

4. Learned counsel for the petitioner contended that this matter is squarely covered under the judgment passed in **LPA No. 1643 of 2019** in **CWJC Case No. 20334 of 2019 (Pintu Biswas Versus The State of Bihar & Ors.)** vide judgment dated 18.10.2023 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 judgments, in the totality of the circumstances, I am of the opinion that the certificate proceeding passed in Certificate Case No. 21 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	02.05.2024
Transmission Date	

