

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.455 of 2021**  
**In**  
**Civil Writ Jurisdiction Case No.965 of 2018**

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Suresh Prasad Son of Late Rameshwar Sao Resident of Village- Chongwa,  
Police Station- Kauakole, District- Nawadah.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
2. The District Magistrate, Nawadah.
3. The Deputy Development Commissioner, Nawadah.
4. The Director, D.R.D.A., Nawadah.
5. The Block Development Officer, Nawadah Sadar, District- Nawadah.
6. The Block Supply Officer, Nawadah Sadar, District- Nawadah.
7. The Secretary, Justice Uday Sinha Judicial Enquiry Commission, 12-13, Back to Harding Road, Patna.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Arun Kumar, Advocate  
For the Respondent/s : Mr. Anjani Kumar, AAG-4

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 24-07-2024**

The writ petition was filed challenging the orders of a Commission, appointed by this Court, produced as Annexure- 1 and 1/A. The contention in the writ petition was that despite the appellant having not remitted 50% of the amounts as directed in the writ petition, that would have only disabled the appellant from claiming a stay of recovery. However, the Commission had to look at the matter independently as directed



by this Court.

2. The learned Single Judge found that the Commission had issued notice to the appellant, and with respect to Annexure-1, there was no appearance for the appellant. As far as Annexure-1/A is concerned, though a Counsel was present, there was no representation filed challenging the recovery or the price, or even against the quantum, for which the price was demanded. The learned Single Judge dismissed the writ petition against which the present appeal is filed.

3. The learned Counsel appearing for the appellant before us contends that he had filed a statutory objection under Section 9 of the Bihar Public Demand Recovery Act, 1914, which has to be definitely considered.

4. We notice that the appellant himself had approached this Court with C.W.J.C. No. 16607 of 2010 and 14565 of 2012, wherein Annexure-5 series of orders were passed following the judgment in C.W.J.C. No. 5638 of 2011 titled Raiful Azam & Ors. v. The State of Bihar & Ors., which is produced as Annexure-4 in the writ petition. As per the orders passed in Annexure-4, admittedly, a Commission was appointed called the Justice Uday Sinha Judicial Enquiry Commission (for brevity, the Commission) to look into the grievances of the



dealers under the Public Distribution System. The appellant had invited an order in two writ petitions subjecting himself to the jurisdiction of the Commission as has been directed by Annexure-4. There is no dispute that a notice was issued, and in one of the cases the appellant did not appear, and in the other case, though an appearance was made formally, no representation was filed. This was the reason for the Commission to direct recovery as ordered earlier.

5. True, the refusal to remit 50% would only have disabled the appellant from seeking a stay of recovery; however, even for a consideration, there should be some effective defense set up before the Commission whose jurisdiction was acceded to by the respondent.

6. We find absolutely no reason to interfere with the impugned orders.

7. The further claim made is of a statutory objection filed before the Certificate Officer; which at this stage cannot be pressed into service. The appellant having invited a judgment in his own case, acceding to the jurisdiction of the Commission appointed by the State as per the directions of this Court cannot now seek for the statutory remedy; which was not even pleaded in the writ petition from which the above appeal arise. The



appellant cannot blow hot and cold and seek for revival of disputes which could have been amicably settled before the Commission; wherein the appellant did not appear despite having succumbed to and acceded to its jurisdiction and in one case having not effectively prosecuted his cause, despite appearance.

8. The appeal hence stands dismissed.

**(K. Vinod Chandran, CJ)**

**(Partha Sarthy, J)**

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