

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9284 of 2016

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Bhim Shankar Pathak son of Lal Gupud Pathak proprietor of M/s Shanti Mini Rice Mill, resident of village- Lalapur, P.S.- Kudra, District- Kaimur Bhabhua

... .. Petitioner/s

Versus

1. The State Of Bihar through District Magistrate, District Kaimur (Bhabhua)
2. The Bihar State Food and Civil Supplies Corporation through its M.D., Bihar at Patna
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur Bhabhua, District Kaimur (Bhabhua)
4. The District Certificate Officer, Kaimur Bhabhua, District- Kaimur Bhabhua

... .. 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	:	Mr. Raghwendra Kumar, SC 22
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 : 11-11-2024

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- 81 of 2014-2015 which has been initiated against the petitioner on the basis Certificate which forms part of section -7 notice is contrary to the statutory rules of Public Demand Recovery Act, 1914 (herein after referred as "P.D.R.Act, 1914" for the sake of brevity) as it is blank at many column, which is



evident from the Certificate and the requisition attached in Annexure-5, 5/A, 5/B to this writ application thus amount to defective notice and defective initiation of the Certificate case

II. 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 of the Certificate case no- 81 of 2014-2015 which has been initiated against the petitioner 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, Kaimur (Bhabhua) (herein after referred as "B.S.F.C" for the sake of brevity) in serving the notice without following the mandatory process which is in violation of the fundamental rights of the petitioner;

III. 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 entire ordersheet including the order dated 30.04.2016 passed in Certificate Case no. - 81 of 2014-15 which is the date for the payment of the money issued against the petitioner; on the ground that the same is without the proper Certificate or requisition under the Public Demand Recovery Act, 1914 and thus the whole process is without jurisdiction.

IV. 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-81 of 2014-15 which has been initiated against the petitioner; on the ground that the court fee has not



been paid by the B.S.F.C. while instituting the Certificate case before the Certificate Officer, Kaimur (Bhabhua) and the limitation will apply in the present case:

V. 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 11.07.2024 passed in **CWJC No. 9221 of 2016 (Raju Gupta Versus The State of Bihar & Ors.)**, this writ petition may also be disposed of on the same term and conditions. The Learned counsel for the petitioner in order to substantiate his argument also relied on some judgments passed by Division Bench of this Court as well as by Hon'ble Supreme Court i.e. judgment dated 18.10.2023 passed in **L.P.A. No. 1643 of 2019 (Pintu Biswas Versus the State of Bihar & Ors)**, Judgment dated 10.10.2017 passed in **LPA NO. 1373 of 2017 (Ram Niwas Sharma Vs. The Food and Consumer Protection Department & Ors.)**, and a judgment passed by Hon'ble Supreme Court of India in **Civil Appeals Nos. 471 of 1975 (State of Karnataka Vs. Shree Rameshwara Rice Mills, Thirthahalli)**. 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, Kaimur (Bhabhua) 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, Kaimur (Bhabhua), shall not resort to any coercive action for recovery of the dues against the petitioner in Certificate Case No. 81 of 2014-15.

6. With the aforesaid observations, this writ petition stands disposed of in light of the judgment passed in **Raju Gupta, Pintu Biswas, Ram Niwas Sharma 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	11.11.2024
Transmission Date	

