

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12788 of 2016

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Mahendra Prasad Jaiswal Son of Sri Baleshwar Prasad Jaiswal resident of
Chandan Nagar, Gulab bag, P.S.- Sadar, District-Purnea, Pro prietor M/s
Mahendra Mini Rice Mill, Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Supaul
3. The Superintendent of Police, Supaul
4. The Additional District Magistrate, Supaul
5. The Certificate Officer, Supaul
6. The Managing Director, Bihar State Food and Civil Supply Corporation,
Limited, Patna.
7. The District Magistrate, Bihar State Food and Civil Supply Corporation Ltd.
Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar
For the Respondent/s	:	Mr. Shailendra Kr. Singh, Adv.
	:	Mr. Utkarsha Utpal, Adv.
	:	Mr. Deepak Kumar, AC to GP 4

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

Date : 24-09-2024

1. The writ petition has been filed for the following

reliefs:-

i. For issuance of an appropriate writ order/direction in the nature of certiorari for quashing the Certificate Case No. 64 of 2014-15 which has been initiated against the petitioner on the basis certificate which forms part of section – 7 notice in contrary to the statutory rules of Public Demand Recovery Act, 1914 (herein after referred as PDR Act) as it is blank at many column,

ii. For issuance of an appropriate writ order/direction in the nature of certiorari for quashing the Certificate Case No. 64 of 2014-15 which has been initiated against the petitioner under Section – 7 of the Public Demand Recovery Act on the ground that the process is not followed properly by the Bihar State



Food and Civil Supplies Corporation (herein after referred as BSFC for the sake of brevity) in serving the notice, without following the mandatory process as the Form No. 1 & 2 has been neither served nor properly made, blank which proves that no independent application mind in there not numbered, not verified which is in violation of the fundamental right of the petitioner

iii. For issuance of an appropriate writ order/direction in the nature of certiorari for quashing the entire order sheet and the final order dated 17.03.2016 passed in Certificate Case No. 64 of 2014-15 on the ground that the same is back dated without hearing and without the proper certificate or requisition under the Public Demand Recovery Act, 1914 and thus the whole process is without jurisdiction.

iv. For issuance of an appropriate writ order/direction in the nature of certiorari for quashing the final order dated 17.03.2016 passed in Certificate Case No. 64 of 2014-15 on the ground that the same is passed without following the principles of natural justice and behind the petitioner.

v. For issuance of an appropriate writ order/direction in the nature of certiorari for quashing the warrant of arrest dated 10.06.2016 passed in Certificate Case No. 64 of 2014-15.

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

2. Initially, vide order dated 26.08.2016 this Court has

dismissed the writ petition, which reads as follows:-

“Heard learned counsel for the petitioner and learned counsel for the State as also learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd.

The writ application has been filed for quashing the Certificate Case No. 64 of 2014-15 and also for quashing the final order dated 17.03.2016 passed in the said certificate case.

At the outset, learned counsel for the respondent-Bihar State Food and Civil Supplies Corporation submits that the petitioner has an



alternative statutory remedy available and the various grounds raised herein with regard to the requisition and certificate have never been raised by the petitioner at any stage when the matter was pending before the Certificate Officer and thus it is not open to the petitioner to raise the same after the final order has been passed against him.

It is further submitted that the petitioner has an alternative remedy in the matter.

I am in agreement with the submission of learned counsel for the respondent-Corporation. Since the petitioner has never raised any ground as having been raised herein for the first time, it does not appear to be a fit case for entertaining the writ petition.

The writ petition is, accordingly, dismissed.”

3. Being aggrieved by the same, the writ petitioner has filed L.P.A. No. 1874 of 2016. The Hon’ble Division Bench of this Court, vide order dated 22.06.2017, has allowed the LPA No. 1874 of 2016. It is relevant to mention the operative portion of the LPA, which reads as follows:-

“6. Accordingly, this Letters Patent Appeal is allowed, order dated 17.03.2016 passed in Certificate Case No. 64 of 2014-15 stands quashed and writ petition is restored to its original file to be considered by the appropriate Bench in accordance with law.

7. Till hearing on the interim prayer by the Writ Court, coercive steps shall remain stayed.”

4. It is pertinent to mention that the writ petition is filed challenging the order dated 17.03.2016 passed in Certificate Case No. 64 of 2014-15. If once, the certificate proceeding is itself quashed by the Hon’ble Division Bench nothing remains in the writ petition for further adjudication.



5. In view of the above observation, the writ petition stands disposed of.

6. Interlocutory Application(s), if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

