

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19874 of 2016

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Jitendra Kumar Thakur Son of Sri Ramanand Thakur, resident of Chandan Nagar Chowk, P.S.- Sadar, District- Purnea, Proprietor M/S Thakur Mini Rice Mill Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna.
4. The District Magistrate, Purnea.
5. The Superintendent of Police, Purnea.
6. The Certificate Officer, Purnea.
7. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar
For the Respondent/s	:	Mr. S. Raza Ahmad- AAG 5
For the BSFC	:	Mr. Shailendra Kumar Singh
		Mr. Utkarsh , Advocates

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

Date : 16-12-2024

1. The petitioner has filed the instant application for the following reliefs:

i) For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the Certificate Case no. 681 of 2014-15 which has been initiated against the petitioner on the of 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 PDR Act) as it is blank at many column, not properly made, signed by the District Manger which is evident from the notice attached in Annexure- 11 to this writ application thus amount to defective notice and defective initiation of the certificate.

(ii) For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the Certificate case no. 681 of 2014-15 which has been initiated against the petitioner under Section -7 of the Public Demand Recovery Act which it is asked to pay amount of Rs. 12,21,950.53 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 has not been properly made, signed by the District Manager and blank and certificate notice is issued without application of independent mind and without proper verification and therefore it is 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 Certificate case and the final order dated 8.3.2016 passed in Certificate Case No. 681 of 2014-15, on the ground that the same is back dated not made under the capacity of Certificate Officer rather the same is under the capacity of A.D.M., 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 8.3.2016 passed in Certificate Case no. 681 of 2014-15 on the ground that the same is passed without following the principles of natural justice, on a back date, under the capacity of A.D.M., Purnea and not on the capacity of Certificate officer.

(v) For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the final order dated 8.3.2016 passed Certificate case no. 681 of 2014-15 on the ground that non-maintainability of the objection filed by the petitioner cannot be ground for passing the order under section -10 of the P.D.R. Act 1914 as it is a statutory right given under the Act.



(vi) For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the Certificate case no. 681 of 2014-15 which has been initiated against the petitioner under of the Public Demand Recovery Act on the ground that disputed amount cannot be recover though the Certificate proceeding. For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the warrant of arrest dated 29.3.2016 passed in Certificate Case no. 662 of 2014-15 on the ground that the same is without giving mandatory requirement of 15 days, blank at places, violation of fundamental rights of the petitioner.

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

2. At the outset, Learned counsel for petitioner contended that since this matter is squarely covered under the under the judgment passed by this Court in **CWJC No. 11206 of 2016 (Badri Prasad Gupta Versus The State of Bihar & Ors.)** reported in **2018(3) PLJR 218**, this writ petition may also be



disposed of on the same term and conditions.

3. Learned counsel for the respondents submits that this Court has disposed of similar matters which are squarely covered under the order dated 11.07.2024 passed in **CWJC No. 9221 of 2016 (Raju Gupta Versus The State of Bihar & Ors.)**, and 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 respondents 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”

4. Heard the learned counsel for the petitioner as well as the respondents.



5. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ application is allowed in light of the judgment passed in **Badri Prasad Gupta (supra)** and the Certificate Case No. 681 of 2014-15 is quashed. It will be open to the respondents to proceed afresh in the certificate proceedings, if permissible under the law.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2024
Transmission Date	

