

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15996 of 2017

Arvind Kumar Son of Sri Shiv Narayan Mehta, R/o Village- Baisa, P.S.-
Bhaptiyahi, District- Supaul, proprietor of M/S Raghupati Chawal Mill,
Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply,
Patna
2. The District Magistrate , Supaul.
3. The Superintendent of Police, Supaul.
4. The Certificate Officer, Supaul.
5. The Deputy Superintendent of Police, Supaul.
6. The District Manager, Bihar State Food and Civil Supply Corporation,
Supaul.
7. The District Manager, Bihar State Food and Civil Supply Corporation,
Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Advocate
For the State	:	Mr. S.Raza Ahmad -AAG 5
For the BSFC	:	M/s Shailendra Kumar Singh, Utkarsha Utpal, Advocate

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 31-07-2025

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. 52 of 2014-15 which
has been initiated against the petitioner on
the basis of 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 amount is disputed and it is blank at column, which is evident from notice attached in Annexure- 6 to this writ application thus amount to defective notice and defective initiation of the Certificate case.

(ii) For issuance of writ in the nature of certiorari for quashing the Certificate Case no. 52 of 2014-15 which has been initiated against the petitioner under the Public Demand Recovery Act on the ground that disputed amount cannot be recover through the Certificate proceeding.

(iii) For issuance of writ in the nature of certiorari for quashing the Certificate case no. 52 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, as the Form no. 1 has not been properly made & colum is blank & 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.

(iv) For issuance of an appropriate writ order/ direction in the nature of certiorari for quashing the order dated 2.4.2016 passed on the objection petition in certificate case no. 52 of 2014-15 on the ground that the same is passed without following the principles of natural justice.

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

2. The Learned counsel for the respondents brought attention of this Court the order dated 02.06.2025 passed by this Court in I.A. No. 1 of 2025 which had been filed on 28.05.2025 during the summer vacation.

3. For better appreciation of the fact, this Court think it proper to reproduce the order passed on 02.06.2025 by vacation Bench which is as follows:

“Heard Learned counsel for



the petitioner and Learned counsel for the State of Bihar. No one appears for the Bihar State Food and Civil Supplies Corporation.

Re: I.A. no. 1 of 2025

2. The petitioner has filed the instant application praying for stay of the operation of the order dated 19.4.2025 passed in Certification Case no. 52 of 2014-15 by the Learned Additional Collector, Supaul whereby bailable warrant of arrest has been issued against the petitioner

3. In reference to the contents of the petition it is submitted that a request case having been filed by the petitioner, an Arbitrator was appointed wherein both the respondent Bihar State Food and Civil Supplies Corporation (BSFC) and the petitioner herein appeared and the award was passed by the Learned Arbitrator on 28.12.2019 in favour of the petitioner. The same has been challenged by the respondent BSFC vide Misc. Case no.90 of 2020 and is still pending. It is submitted that during pendency of the same bailable warrant of arrest have been issued as stated above and hence



the instant prayer for interim relief.

4. The respondent- BSFC as also the State of Bihar will be at liberty to file their counter affidavits to the interlocutory application within a period of three weeks.

5. In view of the facts stated herein above the operation of the order dated 19.4.2025 passed in Certification Case no.52 of 2014-15 by the Learned Additional Collector, Supaul issuing bailable warrant of arrest against the petitioner is hereby stayed.

6. Put up this case on 1.7.2025”

4. Pursuant to the aforesaid order dated 02.06.2025 passed in I.A. No. 01 of 2025, a counter affidavit dated 20.06.2025 was filed on behalf of the respondent BSFC. It is submitted in para 8 therein that the petitioner has filed I.A. No. 01 of 2025 to the main writ petition and mentioned the matter before the Vacation Court during summer vacation, without the consent or prior information to the Learned counsel for the BSFC. The matter was heard and an interim order was



passed on 02.06.2025.

5. It has further been submitted in the counter affidavit that the petitioner has annexed several orders passed by this Court as well as by the Hon'ble Supreme Court, but all such orders relate to the procurement for the year 2011-12 whereas the present case relates to the procurement for the year 2012-13.

6. It is further pointed out that, in paragraph 10 of I.A. No. 01 of 2025, reference has been made to an arbitral award dated 28.12.2019 passed by the Sole Arbitrator. However, the petitioner has not annexed a copy of the said award with the interlocutory application. It is also submitted that the award dated 28.12.2019 does not contain any relief granted in favour of the petitioner and therefore, the statement made in paragraph 10 of the I.A. No. 01 of 2025 is not acceptable and misleading.

7. The Learned counsel for the respondent (BSFC) further submits that Annexures 6, 7, and 7/1 to the writ petition being a notice,



certificate, and requisition are valid documents issued under Sections 5 and 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 .

8. It is further submitted that the present writ petition is not maintainable in view of the fact that the Certificate Officer, Supaul, has already complied with the earlier direction of this Court and passed an order under Section 10 of the PDR Act. Further the petition is barred by the principle of *res judicata*.

9. It is also submitted by the Learned counsel for the respondent (BSFC) that the petitioner has not approached this Court with clean hands and has obtained the stay order dated 02.06.2025 from the Vacation Court without informing the respondents, thereby adopting a clandestine approach.

10. At this stage, Learned counsel for the petitioner submitted that the present case is squarely covered by the judgment dated 23.09.2014, passed in CWJC No. 16571 of 2014 (M/s Raghupati Rice Mill vs. The State of Bihar &



Ors.) and, therefore, this writ petition may also be disposed of on similar terms and conditions.

11. However, upon perusal of the order dated 23.09.2014 in **M/s Raghupati Rice Mill (supra)**, it is apparent that in that case liberty was granted to the petitioner therein to file objections under Section 9 of the PDR Act. In the present case, the record indicates that the petitioner has already filed objections under Section 9, and the Certificate Officer has passed an order under Section 10 of the PDR Act. The petitioner has not challenged the said order before the competent authority.

12. It is further noted that, during the pendency of the present writ petition, the petitioner filed I.A. No. 01 of 2025 without informing the respondent-BSFC and deliberately failed to annex a copy of the arbitral award dated 28.12.2019. The said award was subsequently brought on record by way of a supplementary affidavit dated 07.07.2025. Such conduct on the part of the petitioner prima facie reflects a mala



fide intention and an attempt to mislead this Court. The Arbitral Award dated 18.12.2019 passed in Arbitration Case No. 8 of 2018 (Arvind Kumar Vs. The Managing Director, BSFC, Bihar, Patna) categorically records at Paragraph No. 87:

"In view of my findings recorded above, the claims raised in paragraph no. 1 of the claim petition are hereby rejected."

13. It is thus evident that arbitration proceedings were duly initiated under the Arbitration and Conciliation Act, 1996, and the disputes were adjudicated by the sole arbitrator. Section 34 of the Act provides for a statutory remedy to challenge an arbitral award before the appropriate Principal Civil Court.

14. Therefore, the petitioner is at liberty to avail the remedies available in accordance with law.

15. Likewise, any order passed under Section 10 of the PDR Act is appealable under Section 60 thereof. The petitioner ought to have



availed such statutory remedy before approaching this Court.

16. In view of the availability of an effective alternative remedy and having regard to the conduct of the petitioner as noted above, this Court finds no merit in entertaining the present Writ petitioner.

17. Accordingly, the writ petition is dismissed.

18. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2025
Transmission Date	

