

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15204 of 2018

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Rajiv Ranjan son of Late Surendra Prasad Singh resident of village Gosainpur, P.S. Hilsa, P.O. Yogipur, District Nalanda Bihar and present posted as Supply Inspector, Subordinate Office, Bagha - 2 P.S. Bagha, District - West Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Bihar State Food and Civil Supplies Corporation through its Chairman cum Managing Director, Kha
4. The District Magistrate, District Bhagalpur, Bihar.
5. The Certificate Officer, District Bhagalpur, Bihar.
6. The District Manager, State Food Corporation, Bhagalpur, District Bhagalpur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
For the State	:	Mr. S.Raza Ahmed -AAG 5
For the BSFC	:	Niraj Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 04-08-2025

1. The petitioner has filed the Writ petition
for the following reliefs:

*“i. Quashing of the Notice
dated 24.05.2018 in connection with
Case No. 03/17-18 issued U/s. 7 of the
Bihar and Orissa Public Demands
Recovery Act, 1914 by the Certificate
Officer, Bhagalpur; and*

(ii) Staying the operation of



the Notice U/s. 7 of the Bihar and Orissa Public Demands Recovery Act, 1914 dated 24.05.2018 issued in connection with Case NO. 03/17-18 by the Certificate Officer Bhagalpur during the pendency of the instant Writ Application.”

2. At the very outset, Learned counsel for the petitioner submitted that the petitioner had earlier filed CWJC No. 4523 of 2017 and, during the pendency of the said writ petition, the respondent – Bihar State Food and Civil Supplies Corporation – issued Memo No. 90 dated 01.02.2018 (Annexure-19 to the present writ petition), under the signature of the District Manager, State Food Corporation, Bhagalpur, whereby the petitioner was directed to deposit a sum of approximately Rs. 1.85 crores.

3. It is further submitted that the petitioner challenged the aforesaid Memo No. 90 dated 01.02.2018 by filing I.A. No. 932 of 2018 in CWJC No. 4523 of 2017. Vide order dated 07.03.2018, a Co-ordinate Bench of this Court



stayed the operation of Memo No. 90 dated 01.02.2018 and directed the Registry to communicate the order to respondent Nos. 1 to 3 and 5.

4 The Learned counsel for the petitioner contended that once this Court had stayed the operation of Memo No. 90 dated 01.02.2018, the respondents had no authority to initiate proceedings under the Bihar and Orissa Public Demand Recovery Act, 1914 for recovery of said amount. However, a certificate proceeding was initiated on 24.05.2018 for recovery of the same amount, based on the Memo No. 90 dated 01.02.2018, which had been stayed by this Court.

5. It was further submitted that, pursuant to the said requisition, the Certificate Officer instituted Certificate Case No. 03/2017-18 and issued a notice under Section 7 of the Bihar and Orissa Public Demand Recovery Act dated 24.05.2018 (Annexure-21). The said notice, along with Letter No. 28 dated 24.05.2018 (Annexure-22) issued by the Certificate Officer, was served upon



the petitioner on 24.07.2018.

6. The Learned counsel for the petitioner argued that the initiation of the certificate case and issuance of the impugned notice is arbitrary, in violation of the interim order passed by this Court in CWJC No. 4523 of 2017. It is also submitted that the said action suffers from non-compliance with essential statutory requirements and is therefore unsustainable in law.

7. Per contra, the Learned counsel for the respondents submitted that the present writ petition is not maintainable as the petitioner has an alternative remedy of filing objections under Section 9 of the Bihar and Orissa Public Demand Recovery Act before the Certificate Officer against the notice dated 24.05.2018.

8. Heard the Learned counsel for the parties and perused the materials available on record.

9. Upon consideration, it is evident that a Co-ordinate Bench of this Court, vide order dated 07.03.2018 in CWJC No. 4523 of 2017, had already



stayed the operation of Memo No. 90 dated 01.02.2018, whereby the petitioner was directed to deposit a sum of approximately Rs. 1.85 crores. The said order was duly communicated to the concerned respondents. This Court, therefore, fails to comprehend how, despite the subsistence of the said stay order, the respondents proceeded to initiate certificate proceedings based on the very same Memo.

10. Such action, clearly amounts to arbitrariness and is in violation of the interim order passed by this Court.

11. Furthermore, Section 10 of the Bihar Certificate Manual specifically provides that the Certificate procedure is not to be used where there exists any doubt regarding the debtor's liability. For better appreciation of the case, Section 10 is reproduced hereinbelow:

“10. Certificate procedure not to be used where there is any doubt of debtor's liability.- Requiring-officers should bear in mind that the certificate procedure is intended only for



the recovery of sums regarding which there is no doubt of the liability of the debtor. Cases in which the debtor is likely with some show of reason to deny his liability should be reported with a view to institution of civil suits.

No such certificate shall be made in respect of any demand the recovery of which is barred by any law of limitation for the time being in force. In the case of rent due to Wards and Government estate the period of limitation depends upon the Tenancy Act applicable and is determined by Schedule III Part I. of the Bihar Tenancy Act. or section 234 of the Chota Nagpur Tenancy Act, as the case may be.

The period of limitation for certificate filed by the examiner of Local Account under the Local Fund Audit Act is three years from the date of the order of surcharge.”

12. In light of the above facts and legal position, this Court is of the considered view that the notice dated 24.05.2018 issued in connection with Certificate Case No. 03/2017-18 by the



Certificate Officer, Bhagalpur, under Section 7 of the Bihar and Orissa Public Demand Recovery Act, 1914, is unsustainable in law.

13. Accordingly, Certificate case No. 03./2017-18 as well as the notice dated 24.05.2018 in connection with Certificate Case No. 03/2017-18 is hereby quashed and set aside.

This writ application stands allowed.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.08.2025
Transmission Date	

