

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8683 of 2015**

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M/s Maa Sita Rice Mill Ajgeba Sour Bajar, District Saharsa, through its proprietor Mukund Kumar, Son of Shri Pawan Prasad Yadav resident of village - Ajgeba P.S. Sour Bajar, District - Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, New Secretariat, Patna
2. The Bihar State Food and Civil Supplies Corporation Limited, Patna
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Patna
4. The District Manager, State Food Corporation Limited, Saharsa
5. The Managing Director, Food Corporation of India Exhibition Road, Patna
6. The District Magistrate, Saharsa
7. The District Certificate, Officer - Cum - Senior Deputy Collector, Saharsa

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	M/s Sudha Chandra, Surendra Kr. Singh Harsha Shashwat, Advocates
For the Respondent/s	:	Mr. Sanjeet Kumar Singh, AC to AAG 6
For the BSFC	:	M/s Shailendra Kumar Singh Utkarsha Utpal Utkarsh Bhushan, Advocates

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**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA  
CHAKRAVARTHY  
ORAL JUDGMENT  
Date : 04-04-2024**

The petitioner has filed the present writ application for the following reliefs:

“(i) For quashing the order dated 21.04.2015, in Certificate case no. 14/2014-15, by Certificate officer, Saharsa, whereby and where under Distress Warrant has been issued against the petitioner, Under Section 9 of Bihar and Orissa Public Demands Recovery Act for recovery of Rs. 75,03,103/- (Rs. Seventy five Lakh three thousand One hundred and



three) only, that too without considering the objection as well as the documents provided by the Petitioner in the proceeding.

(B) For any other relief or reliefs for which the petitioner found entitle to. ”

2. Learned counsel for the petitioner contended that this matter is squarely covered under the judgment dated 22.07.2014 passed by this Hon'ble Court in the case of **M/s Shiv Industries v. The State of Bihar & Ors. (C.W.J.C. No. 7736 of 2014)**.

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 judgment, I am of the considered opinion that once this Court comes to the conclusion that the certificate proceeding is not without jurisdiction, it will have no difficulty in holding that the writ application itself is not maintainable because a division bench of this Court in the case of **Sawar Mal Choudhary & Ors. Vs. State Bank of India & Ors.** reported in 1986 PLJR 660 has already held that a writ application against a notice under Section 7 of the Act will not lie, inasmuch as, there are statutory alternative and efficacious remedy provided under the Act itself by way of deciding the



objection under Section 9 of the Act as also an appeal against such order under Section 60 of the Act and further a revision under Section 62 of the Act. Thus, whatever objection is being raised by the petitioner in this writ application with regard to non-fulfillment of the terms and conditions of the agreement on behalf of the Corporation, could be very well raised by the petitioner by way of objection before the Certificate Officer under Section 9 of the Act.

5. At this stage, learned counsel for the petitioner has submitted that if the petitioner is directed to avail the remedy of filing objection under Section 9 of the Act, there is every possibility of the proprietor of the petitioner company being arrested, inasmuch as, the petitioner had not appeared in the certificate proceeding whereafter an order for taking coercive steps including warrant of arrest may have been issued.

5. Considering the fact that this writ application was filed assailing the notice under Section 7 of the Act and that this Court has found such writ application to be not maintainable, it is hereby directed that no coercive step shall be taken against the petitioner for a period of one month from today during which the petitioner must appear before the Certificate Officer, Saharsa and file its objection under Section 8



of the Act. In the event, the petitioner would fail to appear before the Certificate Officer within a period of one month from today, it shall be open for the Certificate Officer to take appropriate coercive measure against the petitioner as is permissible in law within the ambit of the Act and ofcourse in accordance with law.

6. With the aforesaid observations, this writ petition stands disposed of in light of the judgment passed in **Shiv Industries (supra)**.

**(G. Anupama Chakravarthy, J)**

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.04.2024
Transmission Date	

