

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.19 of 2023

Gopal Gobinda Babaharik Samabaye Samity Limited, a Co-operative Society registered under the Tripura Co-operative Societies Act, 1974, having its registered office at Netaji Market, Agartala, Sub-Division Sadar, District- West Tripura. Represented by its Manager Sri Prantik Dey (31 years), son of Sri Palash Chandra Dey, Pratapgarh, Agartala, West Tripura, Pin-799004.

..... Petitioner(s)

V E R S U S

1. The State of Tripura, represented by the Secretary of Home(Prisons), New Secretariat Building, Gorkhabasti, P.O. Kunjaban, District- West Tripura.

2. Inspector General of Prisons, the Head Office, Prisons Directorate, Dhaleshwar, Agartala, West Tripura-799007.

..... Respondent(s)

For Petitioner(s) : Mr. D.J. Saha, Advocate,
Mr. B. Paul, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

JUDGMENT & ORDER

Date of hearing & judgment : 10th January, 2023

Heard Mr. D.J. Saha, learned counsel appearing for the petitioner and also heard Mr. M. Debbarma, learned Additional Government Advocate appearing for the State-respondents

[2] The present petition has been filed by the petitioner under Article 226 of the Constitution of India for directing the respondents to pay the amount of Rs.29,08,062/- with regard to the demand of the petitioner.

[3] The petitioner is a consumers' cooperative society and is engaged in sales and supply of different materials to the Government as well as non-government organization. The respondents directed the petitioner to supply goods from the financial year 2018 to till date and the respondents have not cleared the bills.

[4] It is alleged that during the financial years 2018-19, 2019-20, 2021-22 & 2022-23 the petitioner had raised certain amount of bills amounting to Rs.1,24,36,927/- for which the respondents paid Rs.83,97,595/- and an amount of Rs.40,39,332/- is still due. Since the respondents had not cleared the due bills, the petitioner issued demand letter No. GGBSS/Letters/2022-23 dated 04.11.2022 for clearance of the long outstanding bill.

[5] Subsequently, the petitioner approached this Court by filing WP(C) No.953 of 2022 and WP(C) No.954 of 2022 and sought for a direction upon the respondents to pay Rs.11,31,270/-. This Court while disposing the writ petitions directed the respondents to consider the demand raised by the petitioner within a period of two months from the date of receipt of the copy of this order, in accordance with law. The order reads as follows :

“When the Court has gone through the records, asked Mr. B. Paul, learned counsel appears vice Mr. B.N. Majumder, learned senior counsel for the petitioner to proceed with the matter. Thereafter, going through the record, Mr. Paul, learned counsel has made his submissions and after hearing the argument of the learned counsel appearing for the petitioner as well as learned counsel appearing for

the respondents, this Court is inclined to dispose of the matter directing the respondent to consider the demand raised by the petitioner within a period of two months from the date of receipt of the copy of this order, in accordance with law.”

[6] Vide memorandum No.F.1-3(13)CONS/COOP/2006/10521-59 dated 19.09.2013 issued by the Registrar of Cooperative Societies for supply of stationary and other required articles to various Departments were authorized to add 5% service charge in the sale price in the event of doorstep delivery on credit purchase within 30 days. It is stated that the petitioner supplied the articles at the doorstep of each of the office. Therefore, additional service charge along with interest to the extent of the memorandum is also entitled by the petitioner. The petitioner is entitled to Rs.29,08,062/- but the respondents are unnecessarily harassing the petitioner by not paying the amount and, therefore, the instant petition has been filed.

[7] The petitioner has prayed for the following relief :

“(i) Issue rule upon the respondents to show cause as to why a writ in the form of MANDAMUS or in the nature thereof, shall not be issued, directing, mandating, commanding, the respondents to pay the amount of Rs.29,08,062/ in accordance to the demand of the petitioner (Annexure-9);

(ii) Issue rule upon the respondents to show cause as to why a writ in the form of MANDAMUS or in the nature thereof, shall not be issued, directing, mandating, commanding, the respondents to pay the interest at the rate of 8% on the principal amount of Rs.29,08,062/ in accordance to the demand of the petitioner (Annexure-9);

(iii) Issue rule NISI;

(iv) In case the respondents show causes or not, this Hon’ble High Court be pleased to pass necessary orders in terms of the above;

(v) Pass any other order/orders as this Hon’ble Court deems fit and proper”

[8] Mr. D.J. Saha, learned counsel appearing for the petitioner submits that the he is treated arbitrarily by denying the payment of the bill raised against supply order of the respondents. On the other hand, Mr. Mangal Debbarma, learned Additional Government Advocate appearing for the State-respondents fairly contends that within 3(three) months from today they will clear the bills.

[9] After hearing learned counsel for the respective parties, this Court is of the considered view that the petitioner shall make a detailed demand in the form of representation and enclosing his bills in support of his claim before the respondents and on receipt of such demand, the respondents shall consider the same, in accordance with law with regard to making the payment of bill. The undisputed amount shall be cleared within a period of 3(three) months and whenever the respondents are raising any dispute, the same may be communicated to the petitioner.

[10] Petition is disposed of with the aforesaid terms. Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Dipesh