

HIGH COURT OF TRIPURA

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WP(C) No.20 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. Union of India represented by the Department Health & Family Welfare, Room No.348, “A” wing, Nirman Bhavan, New Delhi-110011.

2. The State of Tripura represented by the Secretary Department of Health and Family Welfare, Government of Tripura, New Secretary Complex, Kunjaban, Agartala.

3. Mission Director, National Health Mission, Government of Tripura, SIHFW Building 1st Floor, CMO (West) Office, Palace Compound, Agartala, Tripura 799001.

..... 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(ORAL)

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.2,58,386/- 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 respondent No.3 passed supply order in favour of the petitioner and directed for supply of laboratory articles for functioning urban PHCs under the jurisdiction of West District under the respondents. The petitioner raised bill against the respondents. However, the respondents did not pay the amount of the bill.

[4] The Government of Tripura issued a notification dated 27.07.2015 and introduced the Tripura Cooperative Development Incentive Scheme, 2015 for the development of cooperative societies registered under the said Act. Under the said scheme, the government department, Public Sector Enterprise, Autonomous bodies, government aided institutions were authorized to purchase stationary and other articles including food grains, essential commodities, computers and other bodies. Vide File No. F.3(5-3196)-FWPM/SHFWS/Proc./2016 dated 05.07.2017, the respondent No.3 passed supply orders in favour of the petitioner for supply of laboratory articles for functioning urban PHCs under the jurisdiction of West District.

[5] Pursuant to supply order, the petitioner supplied the articles through delivery challans dated 03.09.2017. The petitioner also raised two tax invoices vide No.GST/8/110A/18-19 dated 18.08.2018 and vide No.GST/8/110B/18-19 dated 18.08.2018 aggregated to Rs.2,58,386/-. It is alleged by the petitioner that in spite of the fact that the petitioner supplied the articles pursuant to supply order, he was not paid the due amount. However, the petitioner issued a demand letter on 26.09.2019 but the said demand remained ineffective, and therefore, the petitioner issued two more demand letters dated 18.12.2021 and 11.05.2022 but the respondents did not pay any amount to the petitioner.

[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. 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.2,58,386/- 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.2,58,386/- in accordance to the demand of the respondent (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.2,58,386/-;

(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 since the respondent No.3 (National Health Mission) passed supply orders in favour of the petitioner for supply of laboratory articles for functioning urban PHCs, the liability is on the respondent No.3 (National Health Mission) to 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 respondent No.3 and on receipt of such demand, the respondent No.3 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



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