

GAHC040004712023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Cont.Cas(C) 8/2023

1:M/s Donyi Polo Multi Purpose Cooperative Society Ltd.
Aalo
West Siang District
Arunachal Pradesh represented by its power of Attorney holder Shri Jarkar Gamlin.
Mobile 9436040320

VERSUS

1:Opak Gao and Anr.
IAS
The Commissioner/Secretary
Food and Civil Supplies Department
Govt. of Arunachal Pradesh
Itanagar.

2:Wayong Khimhun
APCS

The Director
Food and Civil Supplies Department
Govt. of Arunachal Pradesh
Naharlagun.

Advocate for the Petitioner : Tony Pertin
Advocate for the Respondent : Subu Tapin

**BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 14-06-2023

Heard Mr. T. Pertin, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for the State respondents/contemnor.

2. This application is filed under Article 215 of the Constitution of India read with Section 11/12 of the Contempt of Court Act' 1971 read with Contempt of Court (Gauhati High Court) Rules' 1977, by the petitioner, namely, *M/s Donyi Polo Multi-Purpose Cooperative Society Ltd.*, for initiating contempt proceeding against the respondents for wilful disobedience of the judgment of this Court dated 09.06.2022, passed in WP(C)No. 101/2022 (*M/s Donyi Polo Multi-Purpose Cooperative Society Ltd. vs. State of Arunachal Pradesh & Ors.*) and to punish the respondents under Section 12 of the Contempt of Court Act' 1971.

3. The background facts leading to filing of the contempt petition is briefly stated as under:

By the judgment and order dated 09.06.2022, passed in WP(C)No. 101/2022, this Court was pleased to direct the State respondents i.e. *1. The State of Arunachal Pradesh represented by the Commissioner/Secretary, Food and Civil Supplies Department, 2. The Food Corporation of India, 3. The Director, Food and Civil Supplies Department and 4. the Deputy*

Commissioner, West Siang District, Aalo, to take immediate steps for releasing of the outstanding balance of Rs. 10,24,88,680/- to the applicant as expeditiously as possible and in any case within an outer limit of 6 (six) months from the date of receipt of the certified copy of the order and in the failure on the part of the State respondents to make the payment within the time framed by the Court would entitle the petitioner to approach the appropriate forum for payment of further interest.

The pleaded case of the petitioner is that after receiving the order of this Court, a copy of the same was furnished to the respondent authorities on 10.06.2022, and the same was duly acknowledged and the time frame fixed by this Court has elapsed on 10.12.2022, and the outstanding balance of Rs. 10,24,88,680/-, as directed by this Court, has not been paid by the respondent authorities. Being aggrieved, the petitioner approached this Court by filing the present petition.

4. Mr. Pertin, learned counsel for the petitioner submits that during the pendency of this petition, the respondent authorities have made payment of Rs. 5.00 crore and the petitioner has duly received the same, however, the balance amount have not yet been paid and therefore, Mr. Pertin contented to fix a time frame to make payment of the balance amount by the respondent authorities.

6. Mr. S. Tapin, learned Senior Government Advocate appearing for the respondents/contemnors, referring to paragraph-4 of the affidavit-in-opposition filed by the respondents/contemnors, submits that there is no wilful disobedience of the order of this Court. It is further submitted that payment of the sum of Rs. 10,24,88,680/- has already been approved by the

cabinet sub-committee and an administrative approval of the same amount has also been accorded for the current Financial Year 2022-23, however, due to paucity of fund, the budgetary allocation for the entire amount could not be made at a time and therefore, an amount of Rs. 5.00 Crore has already been paid by the Budget Department and released to the petitioner vide cheque/draft No. 542611, dated 30.05.2023. Mr. Tapin further submits that since the cabinet sub-committee has already accorded administrative approval for payment of the entire amount, the balance will be released within this Financial Year and that non-payment of the entire amount is not due to any advertent inaction, but due to certain mandatory procedure and paucity of fund and as such, Mr. Tapin submits that there is no wilful disobedience of the order of this Court and it is contended to dispose of the petition by fixing a time frame.

7. Having heard the submission of the learned Advocates of both sides, I have carefully gone through the documents placed on record and I find substance in the submission of Mr. S. Tapin, learned Senior Government Advocate.

8. It appears from the contention made in paragraph no. 4 of the affidavit-in-opposition of the respondents/contemnors that there is no wilful disobedience of the order of this Court on the part of the State respondents. The entire amount could not be paid due to paucity of fund as submitted by Mr. Tapin, learned Senior Government Advocate. In that view of the matter, this Court is inclined to close/dispose of this contempt petition by directing the respondent authorities to release the remaining amount to the petitioner, within a period of 6 (six) months from today.

9. The parties have to bear their own cost.

JUDGE

Comparing Assistant