

**IN THE GAUHATI HIGH COURT****(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)****ITANAGAR PERMANENT BENCH: YUPIA****WP(c)643(AP)2018**

Shri Ravindra Tana Tara, S/o Lt. Nerba Tana
Abo Tani Colony, Seppa, PO/PS Seppa, District East Kameng
Arunachal Pradesh and Proprietor of M/s Nangnyo Nampin Multi-Purpose
Co-operative Society Ltd., M. No. 7253205377.

..... Petitioner

-Versus-

1. The State of Arunachal Pradesh represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.
2. The Arunachal Pradesh Food Commission, Itanagar represented by its Chairman.
3. The Chairman, State Level Vigilance Committee under the Department of Food & Civil Supply, Government of Arunachal Pradesh, Itanagar.

..... Respondents

By Advocates:

For the petitioner: Mr. T. T. Tara
Mr. G. Bam
Mr. A Tatak
Mr. D. Loyi
Mr. B. Picha
Mr. T. Gadi
Mr. K. Jini

For the respondents: Mr. I. Riram, Addl. Sr. Govt. Advocate

:::BEFORE:::
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 30.05.2024
Date of Judgment & order: 30.05.2024

JUDGMENT & ORDER (ORAL)

Heard Mr. Tadup Tana Tara, learned counsel, appearing on behalf of the petitioner. Also heard Mr. Ito Riram, learned Additional Senior Government Advocate, appearing on behalf of all the respondents.

2. The petitioner by way of instituting the present proceeding, has presented a challenge to the institution of an appeal before the Arunachal Pradesh State Food Commission under Section 20 of the National Food Security Act, 2013, by the Chairman, State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, & 5(five) others, against an order passed by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, in C.R. Case No. DGRO-001/2018, dated 20.07.2018.

3. The brief facts requisite for adjudication of the issue arising in the present proceeding, is noticed as under:

The petitioner, in the writ petition, has projected himself to be the proprietor of M/s. Nangnyo Nampin Multi-Purpose Co-operative Society Ltd., which is registered under Section 9 of the Arunachal Pradesh Cooperative Society Act, 1978, and carrying-on the business of drawal, lifting and transportation of PDS items through road transport(vehicular) and as a PDS

wholesaler-cum-carriage contractor in the District of East Kameng, Arunachal Pradesh. The co-operative society which is now represented by the petitioner, herein, was awarded the contract work to carry-out district land route PDS carriage contract for various schemes under the National Food Security Act, 2013, for the year 2017-2018 i.e. till 31.03.2018, by the competent authority of the State.

The allegations having arisen against the petitioner with regard to the manner in which the said distribution was so carried-out and also allegation with regard to the misappropriation of foodgrains; an First Information Report(FIR) came to be lodged against the petitioner by the District Food & Civil Supplies Officer (DFCSO), East Kameng District, Seppa, on 27.03.2018, before the Officer-in-charge, Police Station, East Kameng District, Seppa. On receipt of the said First Information Report(FIR), the police proceeded to register the same as Seppa P.S. Case No. 30/2018 under Sections 406/420 of the IPC.

It is contended that in the meanwhile, the District Food & Civil Supplies Officer(DFCSO), East Kameng District, Seppa, had also lodged a similar complaint before the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa.

It is further contended that the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, proceeded to consider the complaint as lodged against the petitioner, herein, and on conclusion of the proceedings; proceeded vide order, dated 20.07.2018, to exonerate the petitioner from the allegations so levelled against him with further directions as

contained in the said order dated, 20.07.2018.

The petitioner had also instituted a criminal petition being Crl. Pet. No. 46(AP)2018, before this Court, assailing the First Information Report(FIR), dated 27.03.2018, lodged by the District Food & Civil Supplies Officer(DFCSO), East Kameng District, Seppa, before the Police Station, Seppa, which had led to the registration of the Seppa P.S. Case No. 30/2018. This Court, vide order, dated 09.08.2018, on a consideration of the issues involved and also by noticing the decision as arrived at in the matter by the District Grievance Redressal Officer (DGRO), East Kameng District, Seppa, proceeded to allow the said criminal petition and quash the First Information Report(FIR), dated 27.03.2018, registered as Seppa P.S. Case No. 30/2018.

It is contended that after the said developments had taken place in the matter; the Chairman, State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, proceeded vide his communication, dated 02.08.2018, to draw the attention of the Chairman, State Food Commission, Government of Arunachal Pradesh, Itanagar, to the order passed by the District Grievance Redressal Officer (DGRO), East Kameng District, Seppa, in C.R. Case No. DGRO-001/2018 and by highlighting the irregularities as perceived by him in the matter, proceeded to request the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, to nullify the order, dated 20.07.2018, passed by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa.

On receipt of the said complaint from the Chairman, State Level Vigilance

Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar; the State Food Commission, Government of Arunachal Pradesh, Itanagar, proceeded to register a case before it under Section 20 of the National Food Security Act, 2013, and issue notice to the petitioner, herein, to appear before it in the matter.

The petitioner being aggrieved by the institution of the said appeal before the State Food Commission, Government of Arunachal Pradesh, Itanagar, has instituted the present proceeding.

4. Mr. Tara, learned counsel for the petitioner, has submitted that although an appeal against an order of the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, shall lie to the State Food Commission, Government of Arunachal Pradesh, Itanagar, such appeal can only be instituted in terms of Section 15(6) of the National Food Security Act, 2013, by the complainant or the Officer or the authority against whom such order has been passed by the District Grievance Redressal Officer(DGRO).

5. It is contended by the learned counsel for the petitioner that the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, was not a party in the proceedings before the District Grievance Redressal Officer (DGRO), East Kameng District, Seppa, and accordingly, in terms of Section 15(6) of the National Food Security Act, 2013; no appeal could have been instituted by the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, impugning the order issued by the District Grievance Redressal Officer(DGRO),

East Kameng District, Seppa, in respect of the petitioner, herein.

6. It is further contended by the learned counsel for the petitioner that the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, vide his order, dated 20.07.2018, had not passed any direction against the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, and accordingly, in terms of the provisions of the National Food Security Act, 2013; the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, cannot be deemed to be an aggrieved party entitling it to prefer an appeal against the order of the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa.

7. The learned counsel for the petitioner, has also drawn the attention of this Court to the provisions of the National Food Security Act, 2013, and has submitted that the said Act of 2013, has prescribed a defined role for the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, and the function as prescribed for the said Committee does not include the role of initiating proceedings challenging the order(s) passed by the District Grievance Redressal Officer(DGRO).

8. The learned counsel for the petitioner, has submitted that the entertainment of the grievance as raised by the Chairman, State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, by the State Food Commission, Government of Arunachal Pradesh, Itanagar, is clearly without any jurisdiction and accordingly, the

proceedings so initiated and presently pending before the Commission, requires to be interfered with by this Court.

9. The learned State Counsels appearing for the respondents, have contended that an irregularity having been brought to the notice of the State Food Commission, Government of Arunachal Pradesh, Itanagar; the Commission was within its jurisdiction to examine such an irregularity brought to its notice and accordingly, it is contended that there is no illegality committed by the State Food Commission, Government of Arunachal Pradesh, Itanagar, in entertaining the said complaint of the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, as an appeal against the order passed by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, and accordingly, it has been submitted that the present proceeding as instituted by the petitioner, does not merit an acceptance by this Court.

10. I have heard the learned counsels appearing for the parties and also perused the materials brought on record.

11. The National Food Security Act, 2013, under the provisions of Chapter VII provides for the grievance redressal mechanism. Section 15 of the said National Food Security Act, 2013, mandates that the State Government shall appoint or designate, for each district, an Officer to be the District Grievance Redressal Officer (DGRO), for expeditious and effective redressal of grievances of aggrieved persons in the matter of distribution of PDS items or meals and also to enforce the entitlements under the National Food Security Act, 2013.

12. In terms of the provisions of the National Food Security Act, 2013, a complaint being received against the petitioner, herein, from the District Food & Civil Supplies Officer(DFCSO), East Kameng District, Seppa; the District Grievance Redressal Officer (DGRO), East Kameng District, Seppa, on registering the said complaint as C.R. Case No. DGRO-001/2018, proceeded to consider the issue arising therein and after hearing the complainant as well as the present petitioner who was denoted as an accused therein; proceeded vide his order, dated 20.07.2018, to exonerate the petitioner from the allegations as levelled in the complainant as made against him in the matter.

13. The District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, vide his order dated, 20.07.2018, had arrived at a conclusion that the petitioner, herein, is not found to be guilty of mismanagement of PDS rice and further that he had delivered the rice to the concerned Fair Price Shops and accordingly, the petitioner was discharged from the allegations levelled against him. At this stage, it is to be noticed that when the complaint was made before the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, by the District Food & Civil Supplies Officer(DFCSO), East Kameng District, Seppa; the authority had also lodged an First Information Report(FIR) against the petitioner in the matter before the Seppa Police Station. The petitioner had instituted a criminal petition being Crl. Pet. No. 46(AP)2018, before this Court, assailing the said First Information Report(FIR), dated 27.03.2018. This Court upon appreciating the fact that under the provisions of the National Food Security Act, 2013, for the allegations as levelled against the petitioner in the concerned First Information Report(FIR); the appropriate authority for considering the same, is the District Grievance Redressal Officer(DGRO) and also noticing that the District Grievance Redressal Officer(DGRO) had already

considered the issue and discharged the petitioner, herein, from the allegations so levelled against him in the matter; holding that the allegations in the First Information Report(FIR) also to basically relate to alleged anomalies in delivery of foodgrains to targeted public distribution system outlets by the petitioner as a carriage contractor and the same already having been tried and settled, the petitioner *prima facie* could not be inferred to have committed in the criminal breach of trust in the matter and accordingly, this Court was pleased to allow the said criminal petition by quashing the First Information Report(FIR), dated 27.03.2018, registered as Seppa P.S. Case No. 30/2018, under Sections 406/420 of the IPC.

14. The provisions of Section 15(6) of the National Food Security Act, 2013, being of relevant, is extracted hereinbelow:

"15(6). Any complainant or the officer of authority against whom any order has been passed by officer referred to in sub-section(1), who is not satisfied with the redressal of grievance may file an appeal against such order before the State Commission."

15. A perusal of Section 15(6) of the National Food Security Act, 2013, reveals that an appeal against an order of the District Grievance Redressal Officer(DGRO), is maintainable before the State Food Commission by any complainant or the Officer or the authority against whom such order has been passed by the District Grievance Redressal Officer(DGRO) and who is not satisfied with the redressal of grievances as raised in the matter.

16. The State Food Commission is constituted under Section 16 of the National Food Security Act, 2013, and under Section 16(6) of the said Act of 2013; the

functions of the State Food Commission are delineated in the Act. In terms of Section 16(6)(e) of the National Food Security Act, 2013, the State Food Commission is empowered to hear appeals against an order of the District Grievance Redressal Officer(DGRO).

17. On a conjoint reading of the provisions of Sections 15(6) and 16(6)(e) of the National Food Security Act, 2013; it is brought to the forefront that the appeal that is now permissible to be heard by the State Food Commission against the order(s) of the District Grievance Redressal Officer(DGRO), is to be so instituted by any complainant or the Officer or the authority against whom any such order has been passed and who is not satisfied with the redressal of the grievance.

18. In the present case; the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, and/or its Chairman, was not a complainant in the proceedings that were instituted before the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, in C.R. Case No. DGRO-001/2018.

19. The order dated, 20.07.2018, as passed in the matter by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, has also not passed any direction against the State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, and/or its Chairman.

20. Accordingly, applying the provisions of Section 15(6) of the National Food

Security Act, 2013, it can be safely held that the Chairman, State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, is not an authority aggrieved by the directions passed by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, vide order dated, 20.07.2018, and accordingly, such authority would have no locus to challenge the said order dated, 20.07.2018, passed by the District Grievances Redressal Officer(DGRO), East Kameng District, Seppa, before the State Food Commission, Government of Arunachal Pradesh, Itanagar, by invoking the provisions of Section 15(6) of the National Food Security Act, 2013.

21. It is a settled position of law that the appeal as mandated under the provisions of the National Food Security Act, 2013, against an order of the District Grievance Redressal Officer(DGRO), being a creature of the statute, the same can only be so instituted by a person or authority who has been empowered to do so under the provisions of the National Food Security Act, 2013, i.e. the persons who have been so described under the provisions of Section 15(6) of the said Act of 2013 and no other person or authority can be held to have locus to prefer such appeal.

22. Accordingly, the appeal admittedly in the matter being so instituted basing on a communication, dated 02.08.2018, issued by the Chairman, State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, the said authority having no locus to prefer the appeal in question; the State Food Commission, Government of Arunachal Pradesh, Itanagar, ought not to have entertained the said appeal and proceeded to issue notice to the petitioner to appear before it in the matter.

23. The appeal having not preferred by a person so described under the provisions of Section 15(6) of the National Food Security Act, 2013; the State Food Commission, Government of Arunachal Pradesh, Itanagar, would have no jurisdiction to entertain such an appeal and accordingly, the appeal so entertained by the said Commission being without jurisdiction, cannot be permitted to continue in its present form and accordingly, it requires to be interfered with by this Court.

24. At this stage, it is to be noted that under the provisions of Section 29 of the National Food Security Act, 2013, more particularly, Section 29(2), the functions of the Vigilance Committee has been delineated and the functions so authorized to be performed by the Vigilance Committee, does not involve act of instituting appeals against the order passed by the District Grievance Redressal Officer(DGRO). The provisions of Section 29(2) of the National Food Security Act, 2013, being relevant, is extracted hereinbelow:

"29. Setting up of Vigilance Committees.-

(1).

(2) The Vigilance Committees shall perform the following functions, namely:-

(a) regularly supervise the implementation of all schemes under this Act;

(b) inform the District Grievance Redressal Officer, in writing, of any violation of the provisions of this Act; and

(c) inform the District Grievance Redressal Officer, in writing, of any malpractice or misappropriation of funds found by it."

25. The National Food Security Act, 2013, having assigned specific functions to the authorities so created by it; the authorities as created under the said statute, cannot act in derogation thereof.

26. It is stated in the Bar that no person or authority empowered under the provisions of Section 15(6) of the National Food Security Act, 2013, had preferred an appeal in the matter against the order dated, 20.07.2018, passed by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa. The proceedings before the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, not having been so instituted basing on any complaint/information made in the matter by the State Vigilance Committee, under the provisions of Section 29(2)(b) or 29(2)(c); the State Level Vigilance Committee and/or its Chairman, would have no locus to prefer an appeal in the matter before the State Food Commission.

27. In view of the above conclusions and it being demonstrated that the appeal was so instituted by an authority not empowered to institute such appeal and the entertainment of the complaint as made in the matter by the Chairman, State Level Vigilance Committee, Food & Civil Supplies Department, Government of Arunachal Pradesh, Itanagar, vide his communication, dated 02.08.2018, as an appeal by the State Food Commission, Government of Arunachal Pradesh, Itanagar, having been so done without any jurisdiction, the proceedings in the appeal so instituted against the order dated, 20.07.2018, passed by the District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, cannot be permitted to continue any further and accordingly, the said proceedings as now pending before the State Food Commission, Government of Arunachal Pradesh, Itanagar, stands interfered with. Accordingly, the appeal as entertained by the Arunachal Pradesh State Food Commission under Section 20 of the National Food Security Act, 2013, i.e. the appeal being Shri Ramjo Pordung & 4 ors. v. District Grievance Redressal Officer(DGRO), East Kameng District, Seppa, stand set aside along with all consequential actions taken in pursuance thereof.

28. With the above directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant