

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1299 of 2012

IN

Civil Writ Jurisdiction Case No. 5437 of 2012

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Lalendra Sah @ Lalindra Sah Son of Sri Chitranjan Sah resident of
village & P.O. Bhagwatpur, P.S. Sarairanjan, District- Samastipur.

.... Appellant

Versus

1. The State of Bihar
2. The Secretary, Department of Food & Civil Supply, Government
of Bihar, Patna
3. The District Magistrate, Samastipur
4. The Deputy Development Commissioner-Cum-Chief Executive
Officer, District Rural Development Authority, Samastipur
5. The Block Development Officer, Sarairanjan, Samastipur

.... Respondents

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Appearance :

For the Appellant	:	Mr. Sunil Kumar Thakur, Advocate
For the Respondents	:	Mr. Roy Shivaji Nath, AAG-III
		Mr. Jai Vardhan Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 24-03-2015

Heard learned counsel for the appellant and
learned A.A.G.-III for the State.

2. The appellant is aggrieved by order of the
learned Single Judge whereby he has dismissed the writ petition,

which was filed challenging the direction of the district authorities to the writ petitioner who was a P.D.S. Dealer and to whom certain stocks of rice had been and proceeded for ultimate distribution in respect to Sampuran Gramin Rojgar Yojana.

3. The State alleges that the writ petitioner, being unable to account for the rice, must pay the price thereof. At this stage, we may notice one fact that the entrustment of rice was made in the year 2003 to 2006. It was utilized as per permits to be issued by the district authorities. It is not the case of the State that at no point of time any permit or direction was given to the writ petitioner to distribute the same but the same was not distributed. Once rice was given, everyone forgot about it. It is only after 7 – 8 years that the district authorities, upon the report of the Comptroller-cum-Auditor General, Bihar, wanted the writ petitioner to pay the price of the rice. The writ petitioner pleaded that it is no secret that perishable food-grains like rice cannot be stored for such a long period of over 6 to 7 years. It being perishable in nature, in natural course, it is bound to deteriorate and being destroyed. Now, not having utilized the same in time, State cannot throw the burden on the dealers, therefore, the demand is not reasonable rather it would be arbitrary.

4. Reliance was placed on Division Bench

judgment passed in LPA No. 1894/2011, which was disposed of on 15.12.2011, wherein this Court held that before raising the demand and forcing the writ petitioner to pay, there must be a hearing. Therefore, the demands were treated as show cause notices and directions issued to the writ petitioner to deposit 15% of the demand before the authorities who would then decide the matter.

5. While disposing of this appeal in the same terms, we would like to add two things. Firstly, the authorities would be advised to enquire into the responsibility of various district officials starting from highest level who were required to supervise the scheme and review its performance on regular interval, they had obviously failed to do that. Secondly, whether there was any positive direction issued to the writ petitioner to distribute the rice to any particular person or persons and they had failed to do so.

6. These two crucial matters to fix liability because if no steps were taken to distribute the rice for five long years the writ petitioner cannot be made responsible. If it had rotted and became unfit for any use, there is no question of informing the authorities in this regard because any officer with basic intelligence would know that rice cannot be stored in

village conditions for such long period. Thus, the responsibility cannot be under any situation thrust solely upon the dealers in any manner. It has to be shared by the officials right up to the top.

7. With these observations and directions, this Letters Patent Appeal stands disposed of.

(Navaniti Prasad Singh, J.)

Rajeev/-

(Jitendra Mohan Sharma, J.)

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