

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1136 of 2014

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Jayanti Devi @ Jaymanti Devi, wife of late Mahendra Singh resident of village -
Dariyapur, P.O.- Bhaiswan, P.S.- Masaurhi, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
3. The Managing Director, the Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Path, Patna
4. The Deputy Chief (Claims), the Bihar State Food and Civil Supplies Corporation, Sone Bhawan, Birchand Patel Path, Patna
5. The District Magistrate, Patna
6. The Additional District Magistrate (Supply), Patna
7. The Sub-Divisional Officer, Masaurhi, District- Patna
8. The District Manager, Bihar State Food and Civil Supplies Corporation, Patna
9. The Block Co-operative Extension Officer-cum-In-Charge of Paddy Procurement Centre, Dhanarua Block, District- Patna
10. The Block Agriculture Officer-cum-In-Charge of Paddy Procurement Centre, Punpun Block, District- Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Satish Chandra Mishra, Advocate
For the State : Mr. Satyendra Kr. Jha, AC to GP 3
For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-11-2015

The present writ petition has been filed for a direction to the respondents to dispose of or remove through auction sale or in any other manner the paddy of about 5000 quintals and the rice of about 554 quintals kept in the godown of the petitioner and for connected reliefs.

2. The petitioner has established a rice mill, namely, M/s A.M.I. Rice Mill and, inter alia, entered into an agreement dated



29.05.2013 with the respondent-Bihar State Food and Civil Supplies Corporation (for short, “the Corporation”), pursuant to which the petitioner lifted various quantities of paddy. It is submitted that the corresponding amount of Custom Milled Rice (C.M.R.) was tendered for delivery by the petitioner but the same was not taken delivery by the authorities despite requests. Subsequently the petitioner carried the C.M.R. from her godown through hired trucks/tractors for delivery of the same to the godown of the Food Corporation of India, Digha, Patna but the same was rejected by the Quality Controller of the FCI and as such, the rice was brought back to the godown of the petitioner. It is further submitted that thereafter the petitioner filed several representations variously dated 05.12.2013, 12.12.2013 and 13.12.2013 before the District Manager of the respondent-Corporation and the District Magistrate, Patna with copies to the Sub-Divisional Officer, Masaurhi and the Additional District Magistrate (Supply), Patna but of no avail. It is submitted that the respondent-authorities are duty bound to take delivery of the C.M.R. which is lying in the godown of the petitioner even as on date.

3. Learned counsel for the respondent-Corporation, on the other hand, vehemently opposes the writ petition. At the very outset, it is submitted that the writ petition itself has become infructuous as the period in question relates to the marketing year

2012-13 and the C.M.R. could at best have been taken delivery on or before 31.12.2013 in terms of the decision of the Government of India.

4. Having heard the parties at length and on careful consideration of the materials on record, this Court does not find merit in the submissions of the learned counsel for the petitioner. In terms of Clause 5 of the agreement between the parties, the petitioner was required to deliver proportionate percentage of rice within a month from the date of receipt of paddy whereas in the present case it is not in dispute that the paddy has been lifted by the petitioner between the months of May and September, 2013. Therefore, the proportionate amount of rice was required to be delivered by the petitioner between the months of June and October 2013. If the respondent-authority failed in its duty to accept the rice as and when tendered by the petitioner then it was expected that the representations before the authorities would have been filed without delay rather than wait until after the expiry of the marketing year 2012-13. The petitioner could also very well have approached this Court soon after rejection/refusal of acceptance of rice by the authority. This Court, accordingly, finds that the petitioner has not acted with due diligence in the matter and her actions are visited with delay and laches. Moreover, it is the petitioner's own case that a substantial quantity of 5000 quintal of

paddy out of the total paddy lifted is still lying in her godown , which is thus without adequate justification.

5. In the above view of the matter, therefore, this Court does not find any merit in the writ petition which stands dismissed as such.

(Vikash Jain, J)

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