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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 628 of 2015**

M/s Raj Agro Products Mill Through Proprietor Shri Rajkumar Gupta,
Aged About 56 Years, S/o Late Shri Haridas Gupta, Belapan Road,
Takhatpur, District Bilaspur (Chhattisgarh)

---- **Petitioner****Versus**

1. State Of Chhattisgarh And Ors. S/o Through The Secretary
Department Of Food, Civil Supplies And Consumer Protection,
Mahanadi Bhawan, New Mantralaya, Naya Raipur , District Raipur
(Chhattisgarh)
2. Chhattisgarh State Cooperative Marketing Federation Limited,
Through The Managing Director, 880, Civil Lines, Raipur
(Chhattisgarh)
3. District Marketing Officer Chhattisgarh State Cooperative Marketing
Federation Limited, Near Ram Mandir, Tilak Nagar, Bilaspur District
Bilaspur (Chhattisgarh)
4. The Collector, Bilaspur, District Bilaspur (Chhattisgarh)
5. Food Controller Office Of The Collector (Food) Bilaspur (Chhattisgarh)
6. Chhattisgarh State Civil Supplies Corporation Ltd. Through The
Managing Director, Civil Lines, Raipur District Raipur (Chhattisgarh)

Respondents

Shri Kanak Tiwari, Senior Advocate along with Ms. Shailaja Shukla, Advocate
for the Petitioner.

Shri B. Gopa Kumar, Deputy Advocate General for the State.

Shri Prafull N. Bharat, Advocate for Chhattisgarh State Cooperative Marketing
Federation.

Shri V.R. Tiwari, Advocate for Food Corporation of India

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Chief Justice****26/08/2015**

1. Heard Learned Counsel for the parties.

2. Learned Senior Advocate for the Petitioner submits that the Petitioner is not being allowed to lift paddy for custom milling in accordance with the agreement executed between the parties for the year 2014-15. The Petitioner was allowed to lift 48,000 quintals of rice and was required to submit 32,160 quintals of rice. Till date, he has been allowed to lift only 2,000 quintals of paddy, and in return he has submitted 1,617.7 quintals of milled rice. No further supplies of paddy are being made to the Petitioner on the premise that he is first required to lift left over paddy of previous year 2013-14. The Petitioner had declined to do so on the ground that the paddy of the previous years was of poor quality. An additional ground has been urged by Learned Senior Counsel referring to Clause -7(2) proviso of the Rice Procurement (Levy) Order, that no rice miller could be asked to mill paddy in excess of 1/3 rd of its milling capacity as fixed by the Collector. Further, the amendment made to Clause 7(2) on 7.1.2014 was not competent as the concurrence of the Central Government had not been obtained.

3. Shri Bharat appearing on behalf of Respondents - Cooperative Marketing Federation, from the counter affidavit disputing the submissions contended that as against 48,000 quintals of paddy for the year 2013-14, the Petitioner had lifted 38,645.55 quintals of paddy. As against the requirement to deposit 25,892.51 quintals of rice in proportion to the paddy lifted, he had deposited only 22,077.20 quintals of milled rice. It was further submitted that under the agreement for the year 2014-15, the Petitioner had not submitted the requisite bank guarantee and in place of that, had deposited custom milled rice. Furthermore, in the year 2012-13, the Petitioner had not lifted the entire agreed quantity of paddy which was carried out in the next financial year 2013-14.

4. It is therefore evident from the submissions and counter submissions

that there is a basic dispute on facts. In the writ jurisdiction under Article 226, it shall not be appropriate exercise of jurisdiction to enter into this arena of disputed facts especially when the agreement executed between the parties in Clause-15.2 provides for a dispute resolving mechanism before the Secretary, Food and Civil Supplies Department. The agreement signed by the parties binds both of them in including the mechanism for resolution of disputes. The Court, in the garb of judicial review, cannot usurp the inquiry into facts agreed upon between the parties to be done in the manner specified in the agreement.

5. In Writ Petition (C) No.945/15 and analogous cases disposed on 8.7.2015 relating to a similar issue with regard to supply of paddy and submission of milled rice, noticing the dispute resolution clause under 15.2 of the agreement, we have declined to interfere leaving upon it open for the aggrieved to invoke the clause.

6. We are of the considered opinion that the relevance and applicability of Clause 7.2 proviso of the Rice Procurement (Levy) Order would depend on the finding of the facts that may be arrived at by the authorities first. Likewise, the question of examining the validity of amendment would again in turn depend upon the findings on facts regarding quantity of paddy supplied and/or lifted and the quantity of milled rice supplied and/or required to be supplied.

7. If the Petitioner is so advised, it may prefer an appeal before the Secretary, Department of Food and Civil Supplies preferably within a maximum period of two weeks under Clause 15.2. The Secretary concerned is required to consider the claim and grievances of the Petitioner and dispose it by a reasoned and speaking order with utmost expeditiousness preferably within a maximum period of 4-6 weeks from the date of presentation provided

the Petitioner himself cooperates. If the Petitioner seeks any interim relief before the Secretary so that the appeal itself be not rendered infructuous, we expect the Secretary to consider the same expeditiously in accordance with law pending disposal of the appeal. In this manner, the Secretary, after considering the grounds taken in the appeal, shall dispose the matter by a reasoned and speaking order especially if he proposes to pass an order adverse to the Petitioner to facilitate judicial review, should the need arise for the same.

8. The Writ Petition stands disposed.

Sd/-
(Navin Shiha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE

Priya