

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1459 of 2015**

Patel Mahila Sva Sahayta Samuh Through Its President Manorama Devi W/o
J.P. Patel Aged About 45 Years R/o Village Parsidiha P.O. Bartikala P.S.
Wadrafnagar, District Balrampur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Women & Child Welfare, Mantralaya Naya Raipur, Chhattisgarh
2. Collector Balrampur - Ramanujganj District - Balrampur - Ramanujganj Chhattisgarh
3. District Program Officer Women & Child Welfare Department, Balrampur District Balrampur/ Ramanujganj

---- Respondent

For Petitioners: Ms. Rajni Soren, Advocate
Respondent/State: Shri D. R. Minz, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****14/10/2015**

By this petition under Article 226 of the Constitution of India, the petitioner has assailed legality and validity of order dated 13-07-2015, by which, selection of the petitioner and consequent work order for supply of "ready to eat food" has been cancelled on the ground of violation of agreement.

2. The petitioner is a women self-help group. The petitioner had applied and was selected for providing ready to eat food material at Aanganbadi centres in Bartikala Sector vide order dated 17-12-2014 of the Collector. An agreement was entered into between the petitioner and Project Officer on 08-01-2015. On the allegations that samples drawn from the material supplied by the petitioner were found sub standard

as per the analysis report of the Laboratory at Mumbai, award of work was proposed to be cancelled vide memorandum dated 02-05-2015. A show cause notice dated 12-05-2015 was also issued to the petitioner by District Program Officer, Department of Women and Child Welfare, Balrampur. Finally, selection of the petitioner was cancelled vide impugned order, giving rise to the instant petition.

3. Learned counsel for the petitioner argued that the petitioner had been supplying ready to eat food since 2009 without there being any complaint by Aanganbadi Workers, children or women. The petitioner was not supplied copy of sample test reports, thereby depriving the petitioner of an opportunity to raise objections to the veracity of the said report. It is also submitted that the site, where ready to eat food material is prepared, was regularly inspected by the Project Officer and Supervisor, but nothing objectionable was found. It is also submitted that the ready to eat food material is procured by the petitioner from the public distribution system at concessional rates, therefore, if there are some defects, that by itself could not be made a basis to take extreme action of cancellation of petitioner's selection and supply order.

4. Per contra, learned State counsel referring to the averments and documents in their return, has stated that on two occasions, sample collected from the petitioner's ready to eat food material, was sent for Laboratory test at Mumbai and it was found sub standard. A notice was given to the petitioner on 12-05-2015 requiring explanation but the petitioner only sought sympathetic consideration and instead of raising any dispute with regard to correctness of lab test report, only prayed for further opportunity. On 25-06-2015, in the inspection carried out by the Supervisor, ready to eat food production centre was found closed and no member was present. The information with regard to sub standard quality of ready to eat material was communicated vide letter dated 26-06-2015 to the District Program Officer. In the meeting dated 08-07-2015, taking into consideration that the sample of ready to eat food collected from the petitioner, failed in the quality test, a decision was taken vide

impugned order.

5. The decision taken by the respondents to cancel petitioner's selection and work order is based on the consideration that on more than one occasion, sample collected from ready to eat food material supplied by the petitioner, was found sub standard. The respondents have placed on record lab/analysis test report dated 26-09-2014 (Annexure R-2). It has been clearly averred that notice was given to the petitioner on 27-11-2014. These facts have not been disputed by the petitioner in their rejoinder. It has been categorically stated that the sample was again taken on 30-01-2015 and panchnama in that regard was prepared vide Annexure R-4, which shows that the sample was drawn in the presence of President of petitioner's group. The sample was sent for analysis to the laboratory situated at Mumbai. Vide analysis report dated 27-03-2015 (Annexure R-5), it was found that the quality was sub standard. Thereafter, a notice was given to the petitioner on 12-05-2015 (Annexure R-6). The petitioner was asked to submit its explanation. The petitioner, however, instead of raising any dispute with regard to correctness of the lab test report or sample drawn, stated that the group is introspecting regarding mistakes and fault committed by it and the petitioner assured that they would give better results. Reply of the petitioner clearly shows that instead of raising any dispute, the petitioner sought to invoke sympathy and that they may be granted one more opportunity to improve upon. This reply has been conveniently suppressed by the petitioner in their petition and it has been disclosed only by the respondents in their return.

6. A perusal of the selection letter and the agreement placed on record by the petitioner clearly shows that in the event of failure of terms and conditions, the award of work is liable to be cancelled. In the absence of there being any material to doubt the correctness of the procedure for drawing sample, taking into consideration that the samples were drawn in the presence of President of the petitioner's group as is evident from panchnama and that the petitioner was given a notice of the sub standard quality found upon the lab test requiring their explanation which was not

disputed by the petitioner and the petitioner only sought to invoke sympathy, now, in the instant petition, the petitioner cannot be heard complaining violation of principles of natural justice and fairness of procedure on the ground that they were not granted opportunity to dispute the correctness of the lab test report. As per policy dated 03-12-2014 (Annexure R-11) placed on record, failure of test more than once renders the supply agreement liable to be canceled.

7. The decision has been taken in public interest in order to ensure that the beneficiaries namely Aanganbadi workers, women and children do not suffer due to supply of sub standard meal, based on relevant material. Therefore, there is no illegality or arbitrariness in the action of the respondents warranting any interference.

8. In the result, the petition has no merit which is liable to be dismissed and accordingly dismissed.

Sd/-

Manindra Mohan Shrivastava

Judge