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HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (C) NO. 945 OF 2015

Basant Adil S/o Shri Ravidas Adil, aged about 52 years, proprietor M/s Jairam Foods, having its office at village Hathbandh, P.S. Simga, P.O. Hathbandh, Tehsil & Revenue District Baloda Bazar- Bhatapara (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, Ministry of Food and Civil Supplies, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. State of Chhattisgarh, through the Tehsildar, Simga, District Baloda Bazar- Bhatapara (C.G.)
3. Chhattisgarh State Cooperative Marketing Federation, through the Director, Near Agrasen Chowk, Samta Colony, Raipur (C.G.)
4. The District Marketing Officer, Chhattisgarh State Co-operative Marketing Federation, Nutan Kisan Rice Mill, Ramsagar Para, Raipur (C.G.)

... Respondents

WRIT PETITION (C) NO. 947 OF 2015

Basant Adil S/o Shri Ravidas Adil, aged about 52 years, partner M/s Swastik Foods, having its office at village Hathbandh, P.S. Simga, P.O. Hathbandh, Tehsil & Revenue District Baloda Bazar- Bhatapara (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, Ministry of Food and Civil Supplies, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. State of Chhattisgarh, through the Tehsildar, Simga, District Baloda Bazar- Bhatapara (C.G.)
3. Chhattisgarh State Cooperative Marketing Federation, through the Director, Near Agrasen Chowk, Samta Colony, Raipur (C.G.)
4. The District Marketing Officer, Chhattisgarh State Co-operative Marketing Federation, Nutan Kisan Rice Mill, Ramsagar Para, Raipur (C.G.)

... Respondents

WRIT PETITION (C) NO. 948 OF 2015

Basant Adil S/o Shri Ravidas Adil, aged about 52 years, proprietor M/s Jawahar Paddy Processing, having its office at village Hathbandh, P.S. Simga, P.O. Hathbandh, Tehsil & Revenue District Baloda Bazar- Bhatapara (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, Ministry of Food and Civil Supplies, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. State of Chhattisgarh, through the Tehsildar, Simga, District Baloda Bazar- Bhatapara (C.G.)
3. Chhattisgarh State Cooperative Marketing Federation, through the Director, Near Agrasen Chowk, Samta Colony, Raipur (C.G.)
4. The District Marketing Officer, Chhattisgarh State Co-operative Marketing Federation, Nutan Kisan Rice Mill, Ramsagar Para, Raipur (C.G.)

... Respondents

WRIT PETITION (C) NO. 1086 OF 2015

Shri Padmabalaji Rice Mill Pvt. Ltd., having its Registered office at Sihava Road, Dhamtari through its Director, Arvind Khandelwal, S/o Satish Khandelwal, aged about 48 years, R/o Dani Tola, Ward, Dhamtari, Police Station & Post Dhamtari, Civil and Revenue District Dhamtari (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through: Secretary, Food Civil Supplies and Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (C.G.)
2. Chhattisgarh State Cooperative Marketing Federation Limited, through its Managing Director, Raipur, District Raipur (C.G.)
3. District Marketing Officer, State Cooperative Marketing Federation Limited, Raipur, Nutan Kishan Rice Mill premises, Ram Sagar Para, Raipur, District Raipur (C.G.)
4. Collector, Balod, District Balod (C.G.)
5. Tahsildar, Gurur, Tahsil Gurur, Balod, Civil and Revenue District Balod (C.G.)
6. Regional Manager, Food Corporation of India, Vidhan Sabha Road, Kapa, Raipur, District Raipur (C.G.)

... Respondents

WRIT PETITION (C) NO. 1087 OF 2015

Shri Padmabalaji Rice Mill Pvt. Ltd., having its Registered office at Sihava Road, Dhamtari through its Director, Arvind Khandelwal, S/o Satish Khandelwal, aged about 48 years, R/o Dani Tola, Ward, Dhamtari, Police Station & Post Dhamtari, Civil and Revenue District Dhamtari (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through: Secretary, Food Civil Supplies and Consumer Protection Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (C.G.)
2. Chhattisgarh State Cooperative Marketing Federation Limited, through its Managing Director, Raipur, District Raipur (C.G.)
3. District Marketing Officer, State Cooperative Marketing Federation Limited, Raipur, Nutan Kishan Rice Mill premises, Ram Sagar Para, Raipur, District Raipur (C.G.)
4. Collector, Balod, District Balod (C.G.)
5. Tahsildar, Gurur, Tahsil Gurur, Balod, Civil and Revenue District Balod (C.G.)
6. Regional Manager, Food Corporation of India, Vidhan Sabha Road, Kapa, Raipur, District Raipur (C.G.)

... Respondents

WRIT PETITION (C) NO. 1136 OF 2015

Kishore Kumar Yadav, S/o Shri Jagdish Prasad Yadav, aged about 38 years, Proprietor M/s Hari Om Chawal Udyog, having its office at Parsada Road, Tilda, P.S. Neora, P.O. Neora, Raipur, Tehsil & Revenue District Raipur (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, Ministry of Food and Civil Supplies, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. State of Chhattisgarh, through the Tehsildar, Tilda, District Raipur (C.G.)
3. Chhattisgarh State Cooperative Marketing Federation, through the Director, Near Agrasen Chowk, Samta Colony, Raipur (C.G.)
4. The District Marketing Officer, Chhattisgarh State Co-operative Marketing Federation, Nutan Kisan Rice Mill, Ramsagar Para, Raipur (C.G.)

... Respondents

Mr. Vaibhav A. Goverdhan and Mr. Vivek Chopda, Advocates, for the respective Petitioners.

Mr. U.N.S. Deo, Government Advocate, for Respondent - State.

Mr. Prafull Bharat, Advocate, for Respondent – Chhattisgarh State Cooperative Marketing Federation.

Mr. Prashant Jaiswal, Senior Advocate, along with Mr. Himanshu Sinha, Advocate, for Respondent – Food Corporation of India.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

08/07/2015

1. In this batch of writ applications, the Petitioners entered into individual contracts with the Respondents for supply of rice after milling of the paddy given for the purpose by the Respondents.
2. The Respondents allege that the Petitioners have not supplied the full quantity of milled rice equivalent to the paddy given to them for milling and have initiated proceedings for recovery of the monetary value as arrears of land revenue. It is the contention of the Petitioners that they alone are not responsible for their inability to supply the milled rice as per the quantity, but it is also for reasons attributable to the Respondents. It is further urged that there are also cases where the Petitioners are willing and ready to supply milled rice, but the Respondents are not in a position to receive the same due to lack of storage capacity. Extension of time for deposit of the balance amount of milled rice has been granted selectively in some cases citing examples of M/s Padmabalaji Rice Mill Pvt. Ltd., Murkhusra, District Balod and M/s Satguru Industries, Jamgaon, District Durg, till 30.6.2015. In all the writ applications, a common prayer has been made that if the time for deposit of balanced quantity milled rice as per agreement is extended by four months, the Petitioners undertake to supply the requisite amount of milled rice under the contract. Reliance was placed on a consent order in Writ Petition (C) No. 958 of 2015, dated 15.6.2015, extending the time by four months for supply of custom milled rice.

3. Learned Counsel Shri Prafull Bharat, appearing for Chhattisgarh State Cooperative Marketing Federation, raises a preliminary objection to the maintainability of the writ petition submitting that it arises out of a contractual relationship involving investigation into disputed facts. The Petitioners have adequate remedy before the Secretary, Department of Food and Civil Supplies of the State Government under clause 15.2 of the agreement.

4. In Writ Petition (C) No. 958 of 2015, the alternative remedy available before the Secretary under the agreement was not brought to the attention of the Court. A review application has been filed against the same. The consent order passed without bringing clause 15.2 of the agreement to the attention of the Court does not preclude the Respondent from raising objections in the law not raised or considered earlier.

5. We have considered the submissions on behalf of the parties. It is not considered necessary to discuss all submissions made by the parties in view of the nature of the order we propose to pass. Suffice it to observe that arguments have been addressed before us by both sides, inter-alia, with regard to the Madhya Pradesh Lok Dhan (Sodhya Rashiyon Ki Vasuli) Adhiniyam, 1987 read with Madhya Pradesh Land Revenue Code, 1959. The questions under the same are left open for consideration in an appropriate case.

6. The order in Writ Petition (C) No. 958 of 2015 was passed on a mere concession and the attention of the Court does not appear to have been invited to clause 15.2 of the agreement by either parties. The order dated 15.6.2015 does not constitute a binding precedent.

Even otherwise it does not lay down any law and was passed without noticing the agreement in question between the parties.

7. The agreement itself provides in clause 11.1 for extension of the period of contract and also, inter-alia, deals with the question for non-availability of space for storage if the miller was willing to supply foodgrains. Considering that disputed questions of facts are involved and a common prayer has been made in all the writ applications for extension of time by four months for deposit of the requisite quantity of the milled rice as per the contract, the availability of an alternative remedy for appeal under clause 15.2 of the contract, we are satisfied to dispose these writ applications in the following terms.

8. If the Petitioners file an appeal within ten days under clause 15.2 of the agreement before the Secretary, Department of Food and Civil Supplies, the Secretary concerned is required to consider the claims and grievances of the Petitioners and dispose it by a reasoned and speaking order with utmost expeditiousness considering that notice has already been issued to the Petitioners for recovery as arrears of land revenue. If the Petitioners seek interim relief before the Secretary, so that their appeal itself be not rendered infructuous, we expect the Secretary to consider the prayer for interim relief expeditiously in accordance with law.

9. In this manner, the Secretary after considering the grounds taken in the appeal shall dispose the matter by a speaking and reasoned order by a maximum period of three months, if not, earlier from the date of receipt and/or presentation of the appeal, subject to the cooperation by the parties.

10. The Writ Petitions stand disposed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge

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