

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5360 of 2013

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Ravi Transport Agency at Narayanpur Anant, Sherpur, P.O.- MIC Bela,
District- Muzaffarpur through its Proprietor Ravi Shankar Tiwary, S/O
Shiv Mangal Tiwary.

.... Petitioner/s

Versus

1. Food Corporation of India, Regional Office Arunachal Building,
Exhibition Road, Patna-1, through General Manager.
2. Deputy General Manager (R) Food Corporation of India, Regional
Office, Arunachal Building, Exhibition Road, Patna-1.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Advocate

For the Respondent/s : Mr. Prabhakar Tekriwal, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-04-2016

Heard Mr. Rama Kant Sharma, learned Senior
Counsel for the petitioner and Mr. Prabhakar Tekriwal, learned
counsel for the Food Corporation of India and its officers.

The petitioner is aggrieved by the order dated 14.8.2012
withholding the payment due to the petitioner for the work done on
behalf of the respondents. The petitioner while questioning the
order dated 14.8.2012 also seeks a direction to the respondent-
Authorities for making payment of the admissible dues. A counter
affidavit has been filed on behalf of the respondents and which
explains the background for the impugned order. It is mentioned
that an audit objection was raised by the internal audit team of the
Food Corporation of India. The audit report is placed at

Annexure-A and *inter alia* charges the petitioner of having received excess payment than due.

Mr. Rama Kant Sharma, learned Senior Counsel appearing for the petitioner has with reference to the audit report submitted that the audit team has given its opinion even in absence of records. He further questions the report on merits and submits that since no show cause was issued to the petitioner on this audit report before the respondent-Corporation proceeded to withhold the payment, the interest of the petitioner stands prejudiced and the order impugned in the said circumstances being in the teeth of the principles of natural justice as no opportunity was provided to the petitioner to establish his claim, is fit to be set aside.

Mr. Tekriwal, learned counsel appearing for the Corporation while questioning the claim raised by the petitioner on merits, fairly admits that the order has been passed without opportunity of hearing to the petitioner.

I have heard learned counsel for the parties and I have perused the records.

Since the order withholding the payment of the petitioner *inter alia* on allegation that they have received excess payment entirely rests on the audit report, the copy of which has not been handed over to the petitioner nor any opportunity was provided to him to contest the opinion of the audit team, on this limited count, this Court is unable to uphold the impugned order

dated 14.8.2012 passed by the Deputy General Manager and issued under the signature of the Manager (CONT) whereby the payments have been withheld and which is accordingly set aside.

This order however would not preclude the Corporation to pass orders afresh in the matter but only after an opportunity of hearing to the petitioner. Since the matter is pending consideration since 2012 and a period of more than 4 years has lapsed hence an expeditious disposal of the matter preferably within three months from the date of receipt/production of a copy of the order, would suffice the requirements.

Now that the documents are within the reach of the petitioner he should not wait for a formal notice from the Corporation rather should file his response to the audit objection within four weeks from today before the respondent-General Manager, Regional Office, Patna along with the copy of this order and who shall proceed to dispose of the claim of the petitioner as per the stipulations present hereinabove.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

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