

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.10 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 11746 of 2015

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1. Gausia Primary Agriculture Credit Society through its Chairman namely Sanjeev Tiwari, S/o Birendra Tiwary, R/o- Vill + P.O.- Dumaria, PS- Manjha, District- Gopalganj

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Cooperative Department, Govt. of Bihar, Patna.
3. The Managing Director, Bihar State Food & Civil Supplies Corporation Limited, Bihar, Patna.
4. The District Magistrate, Gopalganj.
5. The District Cooperative Officer, Gopalganj.
6. The Circle Officer, Kateya, District - Gopalganj.
7. The Ministry of Consumer Affairs, Food & Civil Supply, Govt. of India through the secretary.
8. Ameya Primary Agricultural Cooperative Societies through its Chairman, Vikash Tiwary, Son of Sri Rameshwar Tiwary resident of Village-Ameya, Post - Mahuwa, PS- Kateya, District Gopalganj.

.... Respondents

with

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Letters Patent Appeal No. 14 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 11746 of 2015

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1. Usari Primary Agriculture Credit Society through its Chariman namely Amar Kumar Yadav S/o Ganesh Yadav R/o Vill + PO - Usari, PS - Baikunthpur, Dist - Gopalganj.

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Cooperative Department, Govt. of Bihar, Patna.
3. The Managing Director, Bihar State Food & Civil Supplies Corporation Limited, Bihar, Patna.
4. The District Magistrate, Gopalganj.
5. The District Cooperative Officer, Gopalganj.
6. The Circle Officer, Kateya, District - Gopalganj.
7. The Ministry of Consumer Affairs, Food & Civil Supply, Govt. of India through the Secretary.
8. Ameya Primary Agricultural Cooperative Societies through its Chairman, Vikash Tiwary son of Sri Rameshwar Tiwary resident of village - Ameya, Post - Mahuwa, PS - Kateya, District - Gopalganj.

.... Respondents

with



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Letters Patent Appeal No. 28 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 11746 of 2015

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1. Karnpura Primary Agriculture Credit Society through its Chairman namely Zakir Hussain S/o Kamrul Hoda Ansari R/o vill. - Pipra, P.O. + P.S. Manjhagarh, Distt. - Gopalganj

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna
2. The Principal Secretary, Cooperative Department, Govt. of Bihar, Patna
3. The Managing Director, Bihar State Food & Civil Supplies Corporation Limited, Bihar, Patna
4. The District Magistrate, Gopalganj
5. The District Cooperative officer, Gopalganj
6. The Circle officer, Kateya, District - Gopalganj
7. The Ministry of Consumer Affairs Food & Civil Supply, Govt. of India through the Secretary
8. Ameya Primary Agricultural Cooperative Societies through its Chairman, Vikash Tiwary Son of Sri Rameshwar Tiwary Resident of village - Ameya, Post Mahuwa, P.S. Kateya, District - Gopalganj

.... Respondents

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Appearance :

(In all the appeals)

For the Appellants	:	Mr. Chakrapani, Advocate Mr. Sanjay Kumar Singh, Advocate
For the Respondent BPSC:	:	Mr. Shailendra Kumar Singh
For the Union of India	:	Mr. S.D.Sanjay, ASG
For the Respondent State	:	Mr. Kinkar Kumar, SC 9

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 22-11-2016

Heard learned counsel for the parties.

The appellants are aggrieved by the order dated 14th of October, 2015 passed by the learned Single Bench of this Court in C.W.J.C No. 11746 of 2015 and other connected writ petitions,



whereby the writ petitions said to be filed by similarly situated writ petitioners were allowed but the relief was limited to only four writ petitioners. The appellants have preferred the appeals against the said orders for the reasons that the said order should also be applicable to the appellants. Since the issues raised in all these appeals are common, therefore, taken up for decision by a common order. But for facility of reference, the facts are taken from LPA 10 of 2016- (Gausia Primary Agriculture Credit Society Vs. The State of Bihar & ors).

The appellant claims to be Agricultural Credit Cooperative Society. The appellant has procured paddy during the Kharif Season 2014-15. The District Magistrate, Gopalganj vide Communication dated 19th May, 2015 intimated the Bihar State Food and Civil Supplies Corporation Limited that there is nil stock of paddy in the Primary Agriculture Credit Cooperative Societies in the district of Gopalganj as on 31st March, 2015. The grievance is that there was physical verification done by the District Magistrate and as per physical verification, 1396 quintals paddy were lying in the Rice Mill, to which the appellants Agriculture Society were associated. The appellants invoked the jurisdiction of this Court claiming the said relief as has been granted by the learned Single Bench in the impugned order under appeal.

Learned Single Bench in the writ application filed by the



other Societies noticed that there is cut-off date for delivery of paddy to the Rice Mill that is 31st March, 2015 though it was subsequently extended to 31st August, 2015 by the Government of India. The Court held that the relief is restricted to those Societies who have invoked the writ jurisdiction of the Court before the cut-off date. The Court held as under:-

“In so far as the present batch of writ petitions are concerned the cut-off date is not a relevant factor since all these petitioners have moved this Court within the cut-off date. The issue which falls for consideration is whether the stock of these petitioners against which disposal is claimed is supported with valid document and if the answer is in affirmative then whether they should be granted the reliefs prayed, notwithstanding that the date has lapsed.

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Although the claim put forth by the society is now sought to be scuttled on the grounds that the cut-off date so fixed by the Union of India i.e. 31.8.2015 has since lapsed but in my opinion once the records support that the paddy was purchased within the cut-off date fixed for the Kharif Marketing Seasons 2014-15 i.e. 31.3.2015 and the petitioners have approached this Court within the cut-off date so fixed under the Government of India policy i.e. 31.8.2015 then a mere pendency of these matters before this Court would not act prejudicial to their rights and interests. Once the purchase is supported by the enforcement certificate then the stock so remaining with the society whether in paddy form or in “CMR” has to be accepted by the Corporation and its delivery taken and correspondingly the Union of India in its Ministry



of Consumer Affairs cannot shirk from its responsibility to provide funds for such purchase. The only rider to such conclusion is that the society concerned should have approached this Court within a reasonable time and before the cut-off date i.e. 31.8.2015.

The petitioners herein have admittedly filed the writ petitions much before the cut-off date and thus are entitled to the reliefs prayed. The stock figures available with the petitioners are supported with the enforcement certificates and thus the delivery thereof has to be accepted by 'the Corporation' and for which funds have to be provided by the Union of India in its Ministry of Consumer Affairs. In result, the State Food Corporation and the Union of India in its Ministry of Consumer Affairs are directed to accept the paddy/CMR so available in the stock of the writ petitioners the details of which have been given above and ensure payment of its price as found admissible. The 'CMR' would be delivered by the petitioner-societies without any delay and in so far as the balance stock of paddy is concerned, the writ petitioner in CWJC No.11746 of 2015, CWJC No.11861 of 2015 and CWJC No.11865 of 2015 would get it milled and make the proportionate supply of the 'CMR' produced therefrom within a fortnight from today.

These writ petitions are accordingly allowed."

The relief sought for by the appellants cannot be granted as the appellants invoked the jurisdiction of this Court by filing the present appeal after cut-off date. The reasoning given by the learned Single Bench is based upon reason and the policy of procurement. As



per the physical verification done by the District Magistrate, 1393 quintals paddy was found in the Rice Mill and not with the appellants. The Rice Miller can have paddy from different sources including open market. Therefore, to assert that 1393 quintals paddy in the Rice Mill was procured by the appellants cannot be accepted after the cut-off date and after the next Kharif Season had started.

In view of the above, we do not find any reason to entertain the Letters Patent Appeals. The Letters Patent Appeals are, therefore, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

A.I./-

AFR/NAFR	N.A.F.R.
CAV DATE	NA
Uploading Date	03.12.2016
Transmission Date	

