

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4444 of 2016

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1. Surendra Kumar Son of Rajeshwar Singh R/o Village- Kosdihra Tola, PS-Baroon, District Aurangabad.
 2. Narendra Kumar Singh Son of late Kamlesh Singh R/o Village-Baroon PS - Baroon , District Aurangabad.
 3. Braj Bihari Singh son of late Rajdeo Singh R/o Village-English , PS -Baroon , District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate District -Aurangabad.
2. The District Magistrate District Aurangabad
3. The Bihar State Food and Civil Supplies Corporation Limited through its M.D. Bihar at Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Aurangabad, District Aurangabad.
5. The Store-in-Charge, State Food and Civil Supplies Corporation Limited, Barun -1 PS-Barun District Aurangabad.
6. The Certificate Officer, District Auranagabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary, Adv.
For the Respondent/s : Mr. M.K. Ambastha, G.P.14
Mr.Kaushal Kumar Jha, adv.
For the BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-06-2016

In the nature of the order which this Court proposes to pass in view of the consensus reached between the parties i.e. the petitioners, State and the Bihar State Food and Civil Supplies Corporation, this Court would not be required to delve into the merits of the case. Suffice it to say that the certificate proceedings in question, the validity whereof is being challenged in this writ petition, were initiated on default of the petitioners in supply of custom milled rice

(hereinafter referred to as the C.M.R.), in return of the paddy received by them from the respondent-Corporation for milling purposes.

In so far as the petitioner No.1 is concerned, 2054.40 quintals of paddy was supplied by the Corporation during the Kharif Marketing Season 2012-13 and which was required to be milled by the petitioner No.1 to supply 1376.448 quintals of C.M.R. to the Corporation. It is the case of the Corporation that as until 30.4.2013 the petitioner No.1 supplied a meager 540 quintals of C.M.R. thus a balance of 836.448 quintals of C.M.R. remained outstanding for supply by the petitioners leading to institution of the Certificate Case No. 92 of 2014-15 for realization of the price of the balance quantity of C.M.R. calculated at the rate of Rs. 2156.56 per quintal which comes to Rs. 1811378/-.

In a similar manner, the certificate proceedings bearing Certificate Case No.41 of 2014-15 was initiated against the petitioner No.2 for recovery of the price of balance C.M.R. which remained outstanding for supply to the Corporation. The petitioner No.2 had to supply 4475.734 quintals of C.M.R. but he managed to supply 2160 quintals only leaving a balance of 2315.734 quintals of C.M.R., the price whereof at the rate of 2165.56 quintals comes to Rs. 50,54,861/-.

In a similar manner and for the same default Certificate Proceeding No. 77 of 2014-15 was initiated against the petitioner



No.3 who was supplied with 5769.90 quintals of paddy in return of which the petitioner No.3 had to supply 3865.80 quintals of C.M.R. but the petitioner No.3 made a supply of 1890 quintals of C.M.R. leaving a balance of 1975.80 quintals of C.M.R. the price of which at the rate of Rs. 2165.56 quintals comes to Rs. 42,78,785/- and which is the certificate amount.

In each of the three cases final orders have been passed by the District Certificate Officer, Aurangabad under Section 10 of 'the' Act' upholding the demand. It is also not in dispute that during the pendency of the proceedings some portion of certificate amount have also been paid by each of the petitioners, the details of which has been placed on record by Mr. Shailendra Kumar Singh by different charts which are on records of the proceedings and bears the signature of the District Manager, Aurangabad.

In so far as petitioner No.1 is concerned, as against certificate amount of Rs.1811378/- the Corporation after adjusting the payments made by the petitioner and after adjusting the claims raised towards expenses, has found a balance of Rs. 14,39,319/-. In a similar manner in so far as the petitioner No.2 is concerned, as against an outstanding of Rs. 50,14,861/- the present balance outstanding after adjusting the deposits and claims according to the Corporation, comes to Rs. 39,88,977/-. In so far as the petitioner No.3 is concerned, as against

certificate amount of Rs. 42,78,785/- the Corporation after adjusting the deposits and the claim raised against the milling has determined an outstanding of Rs. 25,93,500/-.

Since the petitioners have not deposited the balance certificate amounts hence bailable warrants have been issued but which has been kept in abeyance under the interim order passed in the present proceedings. The various orders passed in the present proceedings records a willingness of the three petitioners to make payment of the balance outstanding but expressing financial stringency for the present they jointly pray for a liberty to make the payment in equal monthly instalments.

Mr. Brij Bihari Tiwary learned counsel for the petitioners has also tried to question the quantification of the certificate amount by referring to a price structure issued by the Government of India, a copy of which has been placed on record vide Annexure-1 to the supplementary affidavit filed on 18.5.2016 and to submit that the determination of the certificate amount is not correct but such argument has been contested by Mr. Shailendra Kumar Singh to submit that the price structure issued by the Government of India consists of various components and in so far as the entitlement/claims of the millers are concerned, whatsoever claim was found admissible has been adjusted by the Corporation. He however, supplements his

arguments to submit that in case there are any other outstanding which remains to be paid to these millers they may raise the same before the corporation together with supporting documents and which would be considered and if admissible paid in accordance with law.

Mr. Tiwari, learned counsel for the three petitioners has submitted that since the certificate amount is huge hence the petitioners may be permitted to clear the same by the end of this financial year 2016-17 in reasonable instalments.

Mr. Shailendra Kumar Singh though endeavours to object to the offer made by the petitioners but in my opinion, it would be in the interest of justice and balancing the equity that the prayer of the petitioners expressing willingness to make payment of the entire outstanding as they stand today in reasonable instalments, is held acceptable.

In the circumstances discussed and taking note of the willingness of the petitioners to make payment of the outstanding amounts in reasonable instalments, I deem it fit and proper to dispose of the writ petition with a direction to the three petitioners herein to make payment of the entire balance outstanding amount discussed hereinabove in reasonable equal monthly instalments beginning from July, 2016 to be completed within a period ending on January, 31, 2017. The equal monthly instalments so calculated by the three

petitioners in context with their respective outstanding, should be deposited by the 7th of each month beginning from July,2016 and any default by the petitioners in two consecutive months would result in the recall of the present order, dismissal of the writ petition and consequentially the certificate proceedings in question initiated against the defaulting petitioner would revive, leaving it open for the District Certificate Officer, Aurangabad to proceed against the defaulting petitioner(s) in accordance with law. So along as the petitioners abide by the directions of this Court as directed hereinabove, the respective certificate proceedings so initiated against them shall remain in abeyance.

In so far as the claim raised by the petitioners against the Corporation is concerned, it is an independent cause of action unconnected with the certificate proceedings and the petitioners shall be at liberty to raise the same before the Managing Director of the Corporation who shall consider and dispose of the same either by himself or by authorizing any other officer of the Corporation competent to do so.

The writ petition is disposed of with the directions and stipulations mentioned above.

Bibhash/-

(Jyoti Saran, J)

AFR	
CAV DATE	
Uploading Date	29-06-2016
Transmission Date	