

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19477 of 2012

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M/s Phulwaria Seva Swawlambi Sahkari Samiti, a Society registered under the Bihar Self-Supporting Cooperative Societies Registration Act, 1996 through its Chairman Arun Kumar Agarwal, son of Shri Jagdish Pd. Agarwal, resident of 41, Shri Rani Sati Chowk, Kasba, P.S. & P.O.- Kasba, District- Purnia

.... Petitioner

Versus

1. The Union of India, through the Secretary, Ministry of Consumer Affairs, Food and Public Distribution (Department of Food and Public Distribution), Krishi Bhawan, New Delhi
2. The State of Bihar through Principal Secretary-cum-Commissioner, Department of Food and Public Distribution, Bihar, Patna
3. The Food Corporation of India, through its Managing Director, Eastern Zone, At-A-10, Middleton Road, Kolkata
4. The Regional Manager, Food Corporation of India, Purnia
5. The Block Cooperative Enforcement Officer, Kasba, Purnia
6. The District Magistrate, Purnia
7. The District Cooperative Officer, Purnia

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Suraj Samdarshi, Advocate
For the Union of India	:	Mr. Kumar Priya Ranjan, Advocate
For the State	:	Mr. Deepak Kumar, AC to SC 5
For the F.C.I.	:	Mr. P.K. Verma, Sr. Advocate
		Mr. S.K. Sharma,
		Dr. Mankeshwar Tiwari, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-11-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for the following reliefs:-

- (i) For issuance of a writ in the nature of mandamus directing the respondent authorities to pay the petitioner the incentive bonus of Rs. 25/- per quintal as had been declared by the State Government over and above the price fixed by the Central Government by way of Minimum Support Price of wheat, which has been paid by the

petitioner at the time of purchase effected from farmers;

(ii) For a direction to the State authorities to pay the amount of bonus along with interest, which has been withheld by the local authorities despite a direction by the Principal Secretary to pay the bonus by 31st of May 2010 itself and or any other relief or reliefs.

3. The short facts of the case according to the petitioner, a Society registered under Bihar Self-Supporting Cooperative Societies Act, 1996, are that pursuant to a notification dated 08.04.2008, it came to be appointed as procuring agent for purchase of wheat from the farmers for Rabi Marketing Season 2008-09. The Government of India declared Minimum Support Price ("MSP" for short) at Rs. 1000/- per quintal of wheat and the State Government declared an incentive of Rs. 25/- per quintal over and above the MSP in terms of letter no. 2465 dated 13.05.2008 (Annexure-2). The petitioner accordingly procured wheat from the farmers in relation to the Rabi Marketing Season for the period 15.04.2008 to 15.07.2008 after making payment of MSP of wheat at Rs. 1000/- per quintal to the farmers. Further, pursuant to the State Government's letter dated 13.05.2008, the petitioner also started making payment of Rs. 25/- per quintal to the farmers by way of bonus, which was paid in respect of the procurements made between 16.05.2008 and 03.06.2008.

4. Learned counsel for the petitioner submits that though the petitioner has since received the amount of MSP of wheat at Rs. 1000/- per quintal from Food Corporation of India which the



petitioner had paid the farmers at the time of procurement, the amount of bonus at the rate of Rs. 25/- per quintal paid to the farmers has not yet been received from the State Government. It is pointed out that the fact of payment of bonus to the farmers is itself not in dispute as evident from the wheat purchase register (Annexure-3) which was countersigned by the Block Cooperative Enforcement Officer, Kasba, Purnia (respondent no. 5) on a regular basis.

5. Learned counsel for the respondents, on the other hand, relies on the counter affidavit to oppose the writ petition. It is submitted that payment of bonus had to be made to the farmers through a/c payee cheque but the petitioner had not submitted the list of concerned farmers or details of their respective bank accounts and hence, the petitioner is not entitled to receive payment of bonus amount in question.

6. Having heard the parties and on careful consideration of the materials on record, this Court finds merit in the submissions of the learned counsel for the petitioner. A perusal of the State Government's letter no. 2465 dated 13.05.2008 (Annexure-2) discloses that a decision had been taken for payment of bonus at the rate of Rs. 25/- per quintal to the farmers which was effective from 14.05.2008 itself. The said letter does not indicate that the payment of bonus was required to be made to the farmers through a/c payee cheque. Since the effective date of payment of bonus has been specified as



14.05.2008, it follows that the procurements for the period 14.05.2008 upto to the end of the year namely, 15.07.2008 had to be made after making payment of bonus to the farmers along with MSP, which the petitioner duly complied with. The claim of the petitioner with regard to the MSP of wheat having been paid in terms of the letter dated 13.05.2008 having been admitted, there appears little reason to deny the petitioner its claim for payment of bonus made in terms of the same letter. There is no dispute that the petitioner has in fact made payment of bonus amount to the farmers at the time of procurement of wheat. Moreover, the fact of payment of bonus by the petitioner was well known to the respondents and acknowledged without demur as the wheat purchase register was countersigned on daily basis by the Block Cooperative Enforcement Officer. The objection of the respondents now raised that the petitioner was not required to distribute the bonus amount to the farmers directly does not therefore appear to have any basis. So also there is no material to indicate that the petitioner was ever informed that the payment of bonus had to be made through a/c payee cheque. To this extent, the stand of the respondents is somewhat self-contradictory, inasmuch as if it was not for the petitioner to distribute the bonus amount to the farmers, then there could be not requirement to distribute such amount through a/c payee cheque.

7. This Court is, therefore, of the view that the petitioner is

entitled to bonus amount at the rate of Rs. 25/- per quintal which it has paid to the farmers at the time of procurement of wheat. The District Magistrate, Purnia (respondent no. 6) is accordingly directed to ensure payment of bonus amount of Rs. 3,66,000/- claimed to have been already paid by the petitioner to the farmers for the Rabi Marketing Season 2008-09, after due verification, within a period of four months from the date of receipt/ production of a copy of this judgment.

8. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.11.2016
Transmission Date	N.A.