

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16853 of 2016

=====

1. Panari Primary Agriculture Credit Co-operative Society (PACS), Gram Panchayat Panari through its Chairman Niranjana Kumar, S/o Late Munni Singh Resident of Village- Kazi Daulatpur, P.S.- Belaganj, Distt- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Co-operative Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
4. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
5. The District Magistrate, Gaya.
6. The District Co-operative Officer, Gaya.
7. The District Manager, State Food and Civil Supplies Corporation, Gaya.
8. The Block Development Officer, Block- Belaganj, Distt- Gaya.
9. The Circle Officer, Belaganj, Distt- Gaya.
10. The Block Co-operative Officer, Block- Belaganj Distt- Gaya.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Onkar Kumar
For the BSFC : Mr. Shailendra Kumar Singh
For the State : Mr. Anujit Sinha, AC to PAAG-2

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-10-2017

Heard learned counsel for the petitioner and learned counsel
for the State as well as BSFC.

In the present writ petition, petitioner has prayed for
issuance of enforcement letter for lifting of Custom Milled Rice
(hereinafter referred to as CMR) prepared from 900 quintals of
paddy from the Rice Mills.

Petitioner is PACS has been authorized to procure the
paddy from the farmers during session 2015-2016 the last date for



purchasing of paddy was 31.3.2016. As per claim of the petitioner present PACS has purchased 1721 quintals of paddy but due to mistake it was informed to the District Magistrate to purchase 821 quintals of paddy. He has further submitted that he has paid the amount through R.T.G.S.to all the farmers from whom he has purchased the paddy. He has given break up of purchased paddy, 401 quintals of paddy was purchased from 6 farmers on 12.2.2016, 420 quintals of paddy was purchased form 5 farmers on 25.2.2016, 412 quintals of paddy was purchased from 7 farmers between 26.2.2016 to 10.3.2016 and 488 quintals of paddy was purchased form 8 farmers between 17.3.2016 to 30.3.2016. It has further been submitted that due to mistake it was informed to the District Magistrate that he has purchased 821 quintals of paddy. He has further submitted that though he has paid the money through R.T.G.S but BSFC has refused to lift the rest quantity of the paddy from the petitioner and thereby caused huge loss to the PACS. It has further been submitted that BSFC in certain PACS even after due date has received the extra amount of paddy from different PACS, namely, Kormathu PACS, Panari PACS, Pai Bigha PACS and Akthu Kachanpur PACS. The case of the petitioner is identical to the aforesaid PACS and as such petitioner should be given same treatment.



This Court vide order dated 21.7.2017 has directed BSFC to file supplementary counter affidavit whereafter they have filed the same. There is no denial of the statement made in paragraph nos. 13 and 18 of the writ petition. Through the submission the counsel for the BSFC wants to deny the fact which is not permissible in law. If they want to deny they should have come forward with the specific statement in the counter affidavit which is completely silent either in the first counter affidavit and in the second supplementary counter affidavit but the question would arise whether this Court should give to the present petitioner on principle of equality in law, as law of equality applies in legality not illegality on the premise that BSFC received paddy after the expiry of due date.

Admittedly last date for receipt of paddy was 31.3.2016. It is also an admitted fact that the District Magistrate in its report has mentioned about purchase of 821 quintals of paddy but how it becomes 1721 quintals, the same cannot be said to be typographical error. If with the connivance of the Officers of the BSFC or Officers of the Co-operative extra quantity of paddy has been transferred to BSFC after due date through illegal manner it requires an enquiry.

In such view of the matter, let this matter be referred to the



Registrar, Co-operative Department who will hold an enquiry, giving reasonable opportunity to the petitioner as well as to the concerned PACS and if it is found that Officers of other PACS have committed illegal acted then suitable action will be taken against them. All process should be completed within six months from the date of receipt/production of a copy of this order. The Registrar Co-operative will communicate the outcome of the proceeding to this Court.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.10.2017
Transmission Date	NA

