

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1002 of 2011
IN
Civil Writ Jurisdiction Case No. 9565 of 2010**

- =====
1. The State Of Bihar Through The Principal Secretary Cum Commissioner
Department Of Food And Civil Supplies, Govt. Of Bihar Patna
 2. The District Magistrate, East Champaran, Motihari
 3. The District Supply Officer, East Champaran, Motihari

.... Appellant/s

Versus

1. M/S Radha Vanspati Radha Nagar, Motihari, Bihar Proprietorship Firm Through
Its Proprietor Yamuna Kumar Sikaria R/O Radhanagar, Distt.-East Champaran,
Motihari
2. The Union Of India Through The Secretary Ministry Of Consumer @ Affairs
Food And Public Distribution Department Of Food & Public Distribution Krishi
Bhawan New Delhi
3. The Food Corporation Of India Through Its Managing Director Distt.-Patna
Bihar
4. The Deputy General Manager, Food Corporation Of India Regional Officer
Patna, Bihar
5. The Area Manager Food Corporation Of India, Motihari, Distt.-East Champaran

.... Respondent/s

with

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**Letters Patent Appeal No. 1955 of 2012
IN
Civil Writ Jurisdiction Case No. 12027 of 2010**

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1. The State Of Bihar Through The Secretary, Department Of Food And Consumer
Protection, Bihar, Patna
2. The Secretary To The Government Of Bihar, Cooperative Department, Bihar,
Patna
3. The Registrar, Cooperative Societies, Bihar, Patna
4. The District Officer, Bhojpur, Arrah
5. The District Cooperative Officer, Bhojpur, Arrah



6. The Nodel Officer [Procurement], Bhojpur, Arrah

7. The Assistant Registrar, Cooperative Societies Arrah Anchal, Arrah

.... Appellant/s

Versus

Om Krishk Sewa Swablambi Sahkari Samiti Ltd. Bhojpur, 'Parihar Sadan', Village Asani, P.S.- Udwantnagar, District Bhojpur, Through Its Chairman Om Prakash Singh Son Of Sri Kamala Singh

.... Respondent/s

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Appearance :

(In LPA No.1002 of 2011)

For the Appellant/s : Mr. N.K.Sinha-3,,AC to AAG IV

For the Respondent/s : Mr. Mrigank Mauli, Mr. Sanket
Mr. Prince Kumar Mishra

(In LPA No.1955 of 2012)

For the Appellant/s : Mr. Binay Kumar Pandey, AC to SC V

For the Respondent/s : Mr. Rakesh Kumar Jha

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07-09-2017

As the questions of law involved in both these appeals are common and they relate to issues which are identical in nature, they are being disposed of by this common order.

In LPA No. 1002 of 2011 challenge is made to an order dated 07.12.2010 passed by the Writ Court in CWJC No. 9565 of 2010 and in LPA No. 1955 of 2012 challenge is made to a similar order passed on 27.03.2012 in CWJC No. 12027 of 2010. In LPA No. 1002 of 2011, appellant is a proprietary firm, and in LPA No. 1955 of 2012, appellant is a Co-operative Society. A notification was



issued by the Department of Food & Civil Supplies, Govt. of Bihar, Patna, whereby a scheme was introduced for procurement of paddy and rice for the year 2008-2009 through various agents like PACS, Co-operative Societies, etc. Under the aforesaid scheme, apart from granting support price it was decided that procurement incentive bonus, price @ Rs.50/- per quintal shall be provided on the purchase. It was the case of the petitioners who are purchasers and who have procured the rice from the farmers and as per the scheme and direction issued they have paid the incentive bonus @Rs.50/- per quintal to the farmers but the same has not been repaid to them either by the Food Corporation of India or by the State Government and, therefore, claiming the aforesaid amount which was to be paid to them, the writ petitions were filed.

The learned Writ Court examined the issue in question and found that Food Corporation of India has received Rs.20 Crores from the State Government under the scheme for the year 2008-09 but for want of authorization the incentive bonus @ of Rs.50/- per quintal could not be paid. We find that the amount has been paid by the petitioners to the farmers. The learned Writ Court directed for making the aforesaid payment and from Paragraph-7 onwards the learned Writ Court in its order passed on 07.12.2010 in CWJC No. 9565 of 2010 has dealt with the issue in the following manner:-



“7. Learned counsel for State of Bihar (Respondent no. 5) submits that it had already advanced the said money to the Food Corporation of India for the purpose and hence it had done what was required. However, it transpires from the materials on the case that mere making the fund available to the Food Corporation of India was not sufficient rather authorization was required from the State Government for the Food Corporation of India to pay the said incentive bonus of Rs.50/- per quintal to the millers including the petitioners, who had already paid that amount to the farmers while procuring paddy. Such authorization was never made by the authorities.

8. In the said circumstances, it is quite apparent that the State Incentive Bonus of Rs.50/- per quintal as declared by the State Government has been paid to the farmers who had supplied paddy to the millers only by the millers including the petitioner and not by the State Government or any of its institutions. Thus the State Government as per its declaration is bound to pay the incentive bonus of Rs.50/- per quintal to the petitioner, who had already paid that amount on behalf of the State Government to the farmers while procuring paddy.

9. Accordingly, the State Government and its authorities (Respondent nos. 5 to 7) are directed to make the fund available to the Food Corporation of India along with the required authorization so that the amount of State Incentive Bonus of Rs.50/- per quintal as declared by the State Government is made available to



the petitioner, who had already made payment of the State Incentive Bonus of Rs.50/- per quintal to the farmers, within two months along with the minimum support price.

10. Furthermore, so far as the claim of the petitioner challenging Costing sheet for the KMS 2008-09 and 2009-10 vide letters dated 19.11.2008 and 20.11.2009 issued by the Under Secretary to the Government of India as well as the costing sheet so far as it concerns the State of Bihar not catering to the State Incentive Bonus while calculating the cost of paddy for the purpose of extraction of rice with a direction to Respondent no.1 to add the State Incentive Bonus to the cost of paddy while calculating the cost of extraction of rice from the paddy is concerned, the said relief cannot be legally granted to the petitioner as the incentive bonus of Rs.50/- per quintal was declared by the State Government much prior which was declared by the State Government much prior which was over and above the Incentive Bonus declared by the Central Government on the minimum support price of paddy.

11. With the aforesaid observation/direction, this writ petition is disposed of.”

The aforesaid issue has been decided by the learned Writ Court based on the material available on record and we see no reason to make any indulgence into the matter.

In the order passed by the learned Writ Court on



27.03.2011 in CWJC No. 1002 of 2011 also the order in question has been passed finding the Society to have made the incentive bonus payment @ Rs.50/- per quintal to the farmers in time of procurement and the direction is to make payment of the aforesaid amount.

Finding no error in the orders passed by the learned Writ Court we dismiss both these appeals.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.09.2017
Transmission Date	N.A.

