

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No. 4180 of 2006

(Shri Sandeep S/o. Badriprasad Agrawal...Vs... State of Maharashtra & Ors)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mrs. V. Gordey, Advocate for plaintiff.
Mr. P.S. Tembhare, AGP for respondents.

**CORAM : B.P.DHARMADHIKARI &
R.B.DEO, JJ.**

DATE : 20.07.2017.

Heard.

Learned counsel submit that cognizance has been taken in public interest and this Court has found it necessary to ensure that BPL card holders receive regular and assured supply of controlled sugar. Our attention is invited to Annexures with petition to urge there that there was huge deficit in sugar needed for distribution to BPL card holders and actually being made available for distribution by the Government. Averments in para no. 15 of the Writ Petition are pressed into for this purpose.

Learned AGP submits that grievance made is in relation to period about 12 years back. In the meanwhile, new policy has been formulated and as per that policy now a nominee namely NCDEXE Markets Limited has been authorized to hold E-auction and procure required sugar. The sugar is then distributed to eligible consumers under 'Antyoday' Scheme.

The documents i.e.

i) Letter dated 21.6.2017 sent by Desk Officer to Controller, Ration & Director of Civil Supplies Mumbai and other officers;

ii) The supply for July, 2017 in tabular form;

iii) Release Order dated 23.6.2017 by Food Distribution Officer at Nagpur in favour of M/s. Dhanraj & Company, Surendra Nagar, Gujrat;

iv) Modified Release Order dated 5.7.2017;

v) Letter from Under Secretary to Director, Rationing & Civil Supplies, Mumbai & other officers with schedule of distribution of sugar for June, 2017;

vi) Government Resolution dated 14.6.2017

were produced by him before this Court to demonstrate that now the entire system has undergone change and is made more consumer friendly and effective.

Counsel for petitioner is objecting to production of these documents. According to her, no affidavit in support of these documents is tendered and she does not know the developments in the field, in absence of instructions.

This Court has on 8.12.2006 passed following order:

“Mr. S.A.Gordey, counsel for the petitioners states that the nominees appointed by the State Government for lifting sugar quota from each sugar factory purposely did not lift the quota within the stipulated period and as per the policy applicable in this regard, if the sugar quota is not lifted within the stipulated time by the nominees, allotment of such quota lapses - resulting in entitling the concerned sugar factory to sell said sugar in open market at the higher rate. It is submitted that, in the Nagpur District, the nominees of Government have deliberately not lifted the sugar quota since July, 2005 and therefore, after lapsing of the quota, the

sugar factories are selling the sugar in the open market at a higher price and making money.

We direct the Assistant Government Pleader to place on record the Policy / Scheme formulated by the State Government in this regard and file an affidavit of the Collector giving details about - how many nominees in the whole district of Nagpur are appointed by the State Government from July, 2005 onwards; how many times the quota of sugar was not lifted, who are those nominees and the reasons for not lifting the quota. The Assistant Government Pleader also must place before us the action the Government has already taken or propose to take against such nominees who have intentionally and deliberately not lifted the sugar quota and allowed it to lapse with a view to provide advantage to the owners of the sugar factories. The affidavit should be filed within a period of four weeks from today.

Place the matter after four weeks.

Copy of this order dully authenticated by the Shirestedar of this Court be supplied to the learned counsel for the parties”.

After this order, respondent State has filed an affidavit initially on 20.2.2007 and

additional affidavit on 4.6.2007 in charts accompanying these documents, names of nominees with quota of sugar allotted to them is shown. Actual quantity of sugar lifted by them and distributed by them is also mentioned therein. Perusal of these charts show that in most of cases, due to non-availability of sugar in sugar factory, full quota of sugar could not be lifted by nominee. In few cases, it is mentioned that as nominee was not paid differential amount of cost, he did not lift the sugar. All these instances are between July 2005 to December 2006.

Those nominees are not party before us and petitioner is not in position to say anything about their existence at this juncture. Hence, ordering an inquiry into lapses, if any during such lifting of sugar at the hands of nominee may not yield any fruitful result.

However, it is apparent that even under 'Antyoday' scheme sugar must be

properly accounted for not only by sugar factory but also by traders, agents who distribute it but also by nominee.

In this situation, we are inclined to take documents produced by learned AGP mentioned Supra on record. Its copy shall also be made available to petitioner during the course of the day.

We grant petitioner leave to move appropriate representation if he finds that any malpractice still continues or system is not full proof. If petitioner makes such representation, it shall be looked into by competent authority within three months after its receipt.

With liberty to the petitioner to approach again, in case, his grievances survives even thereafter, we dispose of present writ petition.

JUDGE

JUDGE

Belkhede, PA