

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3161 of 2011

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M/S Radha Vanaspati, Radha Nagar, Motihari, Bihar a Proprietorship Firm through its Proprietor Yamuna Kumar Sikaria, Resident of Radha Nagar, Motihari.

.... Petitioner/s

Versus

1. State of Bihar, through the Principal Secretary-cum-Commissioner, Department of Food and Civil Supplies, Govt. of Bihar, Patna. null null
2. Sri Tripurari Sharan, Principal Secretary-cum-Commissioner, Department of Food and Civil Supplies, Govt. of Bihar, Patna.
3. Sri Gautam Prasad, General Manager, Food Corporation of India, Regional Office, Patna.
4. Sri Raman Kumar, The District Magistrate, East Champaran, Motihari.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Adv. Mr. Prince Kumar Mishra, Adv. Mr. Sanket, Adv.
For the State	:	Mr. Yogendra Pd. Sinha, AAG-7 Mr. Shankar Kumar, AC to AAG-7
For the F.C.I.	:	Mr. Prabhakar Tekriwal, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

14 05-09-2018 This contempt application has been preferred alleging willful disobedience and disregard to the order dated 07.12.2010 passed by the learned Writ Court in CWJC No.9565 of 2010. The operative part of the order passed by the learned Writ Court reads as under:-

“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 over and above the Incentive Bonus declared by the Central Government on the minimum support price of paddy.”

It is worth mentioning at this stage that when the writ application was preferred before this Court on or about 12.05.2010 a statement has been made in the writ application to the effect that the petitioner had handed over 500 quintal of levy rice to the F.C.I. for the period KMS 2008-09 for which a sum of Rs.7,07,650/- @ Rs.1415/- was paid to the petitioner by the F.C.I. For the on-going KMS 2009-10 period the petitioner had handed over 1,000 quintals of rice to the F.C.I. upto 15.04.2010 and had been paid @ Rs.1574.60. Apparently, when the writ application was filed the procurement year 2008-09 had already come to an end and there was no question of further procurement and supply in KMS 2008-09.

The learned Writ Court was only concerned with the payability of Rs.50/- per quintal to the petitioner as the State incentive bonus which the petitioner claims to have already paid to the farmers. The learned Writ Court was shown the enforcement



certificate on the basis of which it was argued that Rs.50/- per quintal State incentive bonus has already been passed on the farmers over and above minimum support price while purchasing paddy from them. The District Supply Officer, East Champaran, Motihari had issued enforcement certificate to that effect. The learned Writ Court seems to have considered the payability of Rs.50/- per quintal to the petitioner but has not gone into the aspect of actual payment made to the farmers by the petitioner.

In the contempt application initially the F.C.I. came with a plea that they have written to the State government to sanction a sum of Rs.37,315/- and Rs.74,627/- in the light of the report issued by the F.C.I.. The Bihar State Food and Civil Supplies Corporation, Patna vide letter no.4230 dated 29.08.2018 was requested to make available the said fund so that the order of this Court may be complied with but at this stage the petitioner has come out with a rejoinder to the supplementary counter affidavit filed on behalf of the respondent no.3 in which he is claiming that for the KMS 2008-09 the total purchase effected (of paddy) by the petitioner and the amount of rice deposited by the petitioner to the FCI against the purchases of paddy is 3400 quintal.

It is also being claimed that for the KMS 2009-10 as



per the enforcement certificate 16000 quintals of levy rice have been supplied. Some purchase-cum-payment vouchers have been brought on record showing that those rice have been supplied on various dates during the KMS 2008-09. All these purchase-cum-payment vouchers of KMS 2008-09 are drawn on various dates falling before the date of filing of the writ application. The figure now being shown is much more than what has been claimed in the writ application.

Learned counsel for the petitioner in order to allege that the order of the learned Writ Court has not been complied with has given much emphasis on the enforcement certificate wherein the last paragraph reads as under:-

“That the paddy has been purchased directly from the farmers by the rice miller. The levy during the current season is only for the paddy purchased by the rice millers during procurement season which has been fixed from 1st Nov. 2008 to 31st May 2009. And the bonus of Rs.50/- per quintal for paddy has also been passed on the farmers over and above minimum support price while purchase paddy from him.”

It is submitted that for the purpose of contempt the Court should accept that the farmers have been paid on the entire quantity which are now being shown before this Court as have



been supplied to the F.C.I. and then the F.C.I./State be made liable to pay the petitioner bonus amount of Rs.50/- per quintal on the entire quantity of paddy proportionate to the supply of levy rice. The contention is that on the face of the enforcement certificate the fact that the payments have already been made to the farmers is a clinching and well-proven fact which cannot be negated by the State.

Learned counsel for the petitioner has pointed out from the counter affidavit of the F.C.I. that in the writ proceeding they had accepted to have received supplies of levy rice as 1500 quintals in paragraph 13 of the counter affidavit.

Today, a second supplementary counter affidavit has also been filed on behalf of the respondent no.3. In this second supplementary counter affidavit, it is stated that pursuant to the letter dated 28.08.2018 in which Additional Secretary, Food was informed that total 1500 quintal rice was delivered by the petitioner to the F.C.I. along with detail, the State government has sent Rs.1,11,942 in the account of F.C.I. to be paid to the petitioner. When the petitioner was contacted by the District Office FCI, Motihari for giving the detail of the bank account for payment of the amount, the petitioner refused to give the bank



detail showing that they have supplied altogether 19,400 quintals of rice for which the acceptance notes were issued by the F.C.I. It is further stated that the entire record of the receipt of the levy rice had been kept in Chanpatia Godown and after information was received from the petitioner of supplying 19,400 quintals of rice record kept at Chanpatia Godown was verified and it was found that the petitioner had supplied 19,400 quintals of levy rice to the F.C.I. which records are available with the District Office Motihari and it can be verified by any officials at any time. In this connection, a letter dated 03.09.2018 as contained in Annexure-H is also enclosed with the second supplementary counter affidavit.

In the given facts and circumstances of the case where the parties are taking a shifting stand and various facts which was not the part of the adjudication in the writ application, prima-facie this Court sitting in its contempt jurisdiction would not be willing to go into the role of fact finding Court. However, as the learned counsel for the petitioner submits that in terms of the order of the learned Writ Court the petitioner would be entitled to get State incentive bonus @ Rs.50/- per quintal on the entire quantity of paddy proportionate to the supplies of levy rice shown to have been supplied by the petitioner, this Court is of the opinion that if the benefits of State incentive bonus is to be extended to the



petitioner on the entire supplies being claimed by him, it would be necessary to enquire into the matter as to the real position whether the petitioner has paid the State incentive bonus to the farmers on those procurements because the ultimate beneficiaries are the farmers and unless and until the petitioner proves with cogent materials and F.C.I. as well as the Government come to a conclusion based on such cogent evidence that the petitioner has passed on State incentive bonus of Rs.50/- per quintal to the farmers the petitioner cannot claim the State incentive bonus of Rs.50/- per quintal on the entire quantity which he is claiming now in the garb of the order of the learned Writ Court. This Court finds no adjudication to actual quantity of paddy purchased by this petitioner on which the benefit was passed on to the farmers. The enforcement certificate in itself nowhere shows the basis of verification and how the District Supply Officer could believe that the State incentive bonus of Rs.50/- per quintal has passed on to the farmers. Neither the receipts of the farmers nor the bank transaction details showing such payments have been made available before the learned Writ Court and the learned Writ Court has not gone into that aspect of the matter, thus such claim cannot be adjudicated now in contempt jurisdiction.

This Court, in the given facts and circumstances of



the case, would not initiate a proceeding for contempt against the opposite parties. It is for the petitioner to satisfy the State Government with cogent evidence that he has passed on this Rs.50/- per quintal of paddy to the farmers on the quantity now being claimed because in writ they had claimed payments only for 500 quintals of levy rice for procurement year 2008-09 and 1000 quintals for 2009-10 and thereupon the State Government on being satisfied may pass on the benefits to the petitioner in terms of the order of the learned Writ Court. In case the State Government finds that there is a discrepancy and the claim is not payable the same shall be communicated to the petitioner giving reasons thereof. The Court also leaves it open for the State Government to look into the mode and manner which the then District Supply Officer had adopted in the matter of grant of enforcement certificate with regard to payments to farmers. All concerned are to keep in mind that the ultimate beneficiaries of the scheme is the farmers and it is only when the payments have been actually found to have been made to the farmers, the petitioner would be entitled for the payment for the quantity now being claimed in terms of the order of the learned Writ Court. The petitioner may, in the meantime, receive the amount of Rs.1,11,942/- subject to the aforementioned exercise.



The application stands disposed off.

Arvind/-

(Rajeev Ranjan Prasad, J)

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