

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17085 of 2016

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M/s New Sarkar Rice Mill through its Proprietor Ratan Sarkar S/o Late Manoranjan Sarkar, Resident of Village Tungidigha, P.S -Karandighi, Dist-Uttar Dinajpur (West Bengal)

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Araria.
3. The Bihar State Food and Civil Supply Corporation through its Managing Director, Sone Bhawan, Birchand Patel Marg, Patna.
4. That Deputy Chief (claim) The Bihar State Food and Civil Supply Corporation, Sone Bhawan, Birchand Patel Marg, Patna.
5. The District Manager, State Food Corporation, Araria.
6. The District Manager, SFC, Forbesganj, Araria.
7. The Area Manager, Food Corporation of India, Forbesganj, Araria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Bhola Prasad, Advocate
For the BSFC : Mr.Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 07-05-2019 After hearing learned counsel for the parties, as argued

the writ application is being disposed off on merit.

Petitioner in the present case is seeking a writ of Mandamus directing the respondent-Bihar State Food and Civil Supplies Corporation (hereinafter referred to as 'the Corporation') to make proper accounting of quantity of Paddy supplied to the petitioner mill inasmuch as the petitioner claims that he had received only 13768.65 quintals of paddy but the Corporation claims to have supplied 15666.33 quintals of Paddy. The further prayer of the petitioner is that after proper accounting the



Corporation be directed to lift the remaining quantity of rice from the mill premises for which the Corporation is claiming dues of Rs. 92,82,545/- against the petitioner.

It is stated that the Corporation has lodged one FIR against the petitioner and a Certificate Case being Certificate Case No. 7 of 2014-15 has been initiated before the Certificate Officer, Araria.

In course of hearing learned counsel for the petitioner submits that the petitioner is ready and willing to pay the amount whatever will be arrived at after due accounting.

Learned counsel for the Corporation has drawn attention of this Court towards the statements made in Paragraph '5' and '6' of the writ application to submit that in fact, there is an admission of petitioner to the extent that he had supplied only 6210 quintals of CMR against his own calculation of 9223 quintals of CMR which the Corporation was entitled to receive from him. Learned counsel submits that the petitioner is not participating in the certificate proceeding and has not raised any objection to the same before the Certificate Officer. It is submitted that the petitioner has a remedy available under the Bihar and Orissa Public Demand Recovery Act, 1914. Further it is submitted that whether the Corporation had supplied 15666.33 quintals of Paddy or it was 13768.65 quintals as is being claimed by the petitioner cannot be



decided in a writ application under Article 226 of the Constitution of India and the appropriate remedy for the petitioner would lie in terms of contract itself which provides for a dispute resolution mechanism.

In the given facts and circumstances of the case, this Court is of the considered opinion that the reliefs prayed in the writ application cannot be granted by this Court. The petitioner may, if so advised, raise his dispute in accordance with the agreement between the petitioner and the Corporation before the appropriate forum. Since a certificate proceeding has already been initiated, the petitioner will be at liberty to file his objection within a period of four weeks from today and he will be also at liberty to raise all such pleas which are available to him in his objection which will be considered by the Certificate Officer, Araria and a reasoned order thereon shall be passed in accordance with law.

This writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

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