

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1058 of 2019

In

Civil Writ Jurisdiction Case No.4438 of 2009

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The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi.

... .. Appellant/s

Versus

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through its Chairman Cum Managing Director.
2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna.
4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur.
5. M/s Riga Sugar Company Limited, At and P.O. Riga, District- Sitamarhi, through its President Sri Amar Sharma, Son of Late Major B.R. Sharma.

... .. Respondent/s

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with

Letters Patent Appeal No. 999 of 2019

In

Civil Writ Jurisdiction Case No.13205 of 2010

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1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi through the Manager
 2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
 3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna-800001
 4. The Area Manager, Food Corporation of India, District- Office, Muzaffarpur.

... .. Appellant/s

Versus

1. M/s Sasa Musa Sugar Works Ltd. At and P.O. Sasa Musa, District- Gopalganj through its Factory Manager, Jamaluddin Son of Late Nehaluddin.
2. The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi-110001.

... .. Respondent/s

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with



Letters Patent Appeal No. 1001 of 2019
In
Civil Writ Jurisdiction Case No.4438 of 2009

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through the Manager.
2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna- 800001.
4. The Area Manager, Food Corporation of India, District Office- Muzaffarpur.

... .. Appellant/s

Versus

1. M/s Riga Sugar Company Limited, At and P.O. Riga, District- Sitamarhi, through its President Shri Amar Sharma, Son of Late Major B.R. Sharma.
2. The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi- 110001.

... .. Respondent/s

with
Letters Patent Appeal No. 1003 of 2019
In
Civil Writ Jurisdiction Case No.4439 of 2009

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through the Manager.
2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna- 800 001.
4. The Area Manager, Food Corporation of India, District Office- Muzaffarpur.

... .. Appellant/s

Versus

1. M/s Vishnu Sugar Mills Limited, P.O. Vishnu Sugar Mills, P.S. and District- Gopalganj, through its General Manager P.R.S. Panicker.
2. The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi- 110 001.

... .. Respondent/s

with



Letters Patent Appeal No. 1048 of 2019
In
CIVIL REVIEW No.493 of 2017

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1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through the Manager.
 2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
 3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna- 800001.
 4. The Area Manager, Food Corporation of India, District Office- Muzaffarpur.

... .. Appellant/s

Versus

1. M/s Sasa Musa Sugar Works Ltd. At and P.O. Sasa Musa, District-Gopalganj through its Factory Manager, Jamaluddin, Son of Late Nehaluddin.
2. The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi- 110001.

... .. Respondent/s

with

Letters Patent Appeal No. 1049 of 2019
In
CIVIL REVIEW No.22 of 2018

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1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through the Manager.
 2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
 3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna- 800001.
 4. The Area Manager, Food Corporation of India, District Office- Muzaffarpur.

... .. Appellant/s

Versus

1. M/s Riga Sugar Company Limited, At and P.O. Riga, District Sitamarhi, through its President Shri Amar Sharma, Son of Late Major B.R. Sharma.
2. The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi- 110001.

... .. Respondent/s

with



Letters Patent Appeal No. 1052 of 2019
In
CIVIL REVIEW No.21 of 2018

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1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through the Manager.
 2. The General Manager (Bihar), Food Corporation of India, Regional Officer, Patna.
 3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna-800001
 4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur.

... .. Appellant/s

Versus

1. M/s Vishnu Sugul Mills Limited, P.O. Vishnu Sugar Mills, P.S. and District-Gopalganj, through its General Manager P.R.S. Panicker.
2. The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi- 110 001.

... .. Respondent/s

with

Letters Patent Appeal No. 1055 of 2019
In
CIVIL REVIEW No.21 of 2018

The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi.

... .. Appellant/s

Versus

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through its Chairman cum Managing Director.
2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna.
4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur.
5. M/s Vishnu Sugul Mills Ltd., P.O.- Vishnu Sugar Mills, District- Gopalganj, through its General Manager, P.R.S. Panicker.

... .. Respondent/s

with

Letters Patent Appeal No. 1057 of 2019



The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food And Public Distribution) Government of India, Krishi Bhawan, New Delhi.

... .. Appellant/s

Versus

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi Through its Chairman cum Managing Director.
2. The General Manager (Bihar) Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager Food Corporation of India, Arunachal Building, Exhibition Road, Patna.
4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur
5. M/s Sasa Musa Sugar Works Ltd, At and P.O. Sasa Musa, District-Gopalganj, through its Manager Jamaluddin, Son of Late Nehaluddin.

... .. Respondent/s

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with

Letters Patent Appeal No. 1059 of 2019

In

CIVIL REVIEW No.493 of 2017

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The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi.

... .. Appellant/s

Versus

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through its Chairman cum Managing Director.
2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna.
4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur.
5. M/s Sasa Musa Sugar Works Ltd, At and P.O. Sasa Musa, District-Gopalganj, through its Manager Jamaluddin, Son of Late Nehaluddin.

... .. Respondent/s

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with

Letters Patent Appeal No. 1060 of 2019

In

CIVIL REVIEW No.22 of 2018

=====

The Union of India through the Secretary (Food), Ministry of Consumer Affairs and Public distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi

... .. Appellant/s

Versus



1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through its Manager
 2. The General Manager (Bihar) Food Corporation of India, Regional Office, Patna
 3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna
 4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur
 5. M/s Riga Sugar Company Limited, At and P.O.- Riga, District- Sitamarhi, through its Present Sri Amar Sharma, Son of Late Major B.R. Sharma
- Respondent/s

with
Letters Patent Appeal No. 1061 of 2019
In
Civil Writ Jurisdiction Case No.4439 of 2009

The Union of India through the Secretary (Food), ministry of Consumer Affairs and Public Distribution (Department of Food and Public Distribution), Government of India, Krishi Bhawan, New Delhi.

... .. Appellant/s

Versus

1. The Food Corporation of India 16-20, Barakhamba Lane, New Delhi, through its Chairman cum Managing Director.
2. The General Manager (Bihar), Food Corporation of India, Regional Office, Patna.
3. The Senior Regional Manager, Food Corporation of India, Arunachal Building, Exhibition Road, Patna.
4. The Area Manager, Food Corporation of India, District Office, Muzaffarpur.
5. M/s Vishnu Sugar Mills Ltd. P.O.- Vishnu Sugar Mills, District- Gopalganj, through its General Manager, P.R.S. Panicker.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1058 of 2019)

For the Appellant/s	:	Mr. S. D. Sanjay, Addl. S.G. Mr. Rajesh Kumar Verma, CGC Mr. Kumar Priya Ranjan, C.G.C. Mrs. Priya Gupta, Advocate
For the F.C.I.	:	Mr. P.K.Verma, Sr. Advocate Mr. Prabhakar Tekriwal, Advocate Mr. Dr. Anand Kumar, Advocate
For the respondents	:	Mr. Y. V. Giri, Sr. Advocate Mr. Ashish Giri, Advocate Mr. Sumit Kr. Jha, Advocate

(In Letters Patent Appeal No. 999 of 2019)

For the Appellant/s	:	Mr.Saroj Kumar Sharma
For the Respondent/s	:	Mr.Ashish Giri

(In Letters Patent Appeal No. 1001 of 2019)

For the Appellant/s	:	Mr.Saroj Kumar Sharma
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For the Respondent/s : Mr.Ashish Giri
(In Letters Patent Appeal No. 1003 of 2019)
For the Appellant/s : Mr.Saroj Kumar Sharma
For the Respondent/s : Mr.Ashish Giri
(In Letters Patent Appeal No. 1048 of 2019)
For the Appellant/s : Mr.Saroj Kumar Sharma
For the Respondent/s : Mr.Ashish Giri
(In Letters Patent Appeal No. 1049 of 2019)
For the Appellant/s : Mr.Saroj Kumar Sharma
For the Respondent/s : Mr.Ashish Giri
(In Letters Patent Appeal No. 1052 of 2019)
For the Appellant/s : Mr.Saroj Kumar Sharma
For the Respondent/s : Mr.Ashish Giri
(In Letters Patent Appeal No. 1055 of 2019)
For the Appellant/s : Mr.Rajesh Kumar Verma
For the Respondent/s : Mr.Prabhakar Tekriwal
(In Letters Patent Appeal No. 1057 of 2019)
For the Appellant/s : Mr.Rajesh Kumar Verma
For the Respondent/s : Mr.Prabhakar Tekriwal
(In Letters Patent Appeal No. 1059 of 2019)
For the Appellant/s : Mr.Rajesh Kumar Verma
For the Respondent/s : Mr.Prabhakar Tekriwal
(In Letters Patent Appeal No. 1060 of 2019)
For the Appellant/s : Mr.Rajesh Kumar Verma
For the Respondent/s : Mr.Prabhakar Tekriwal
(In Letters Patent Appeal No. 1061 of 2019)
For the Appellant/s : Mr.Rajesh Kumar Verma
For the Respondent/s : Mr.Prabhakar Tekriwal

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 02-12-2019 Relying upon the decision rendered by this Court in

L.P.A. 380 of 2002 (Harinagar Sugar Mills Ltd., Vs. The Union
of India & Ors.) reported in 2008(4) BBCJ 347, the learned
Single Judge allowed the writ petitions filed by the writ
petitioners-respondents herein directing refund of the money
already recovered by the Union of through its instrumentality
along with interest at the rate of 10% per annum.

Having heard learned counsel for the parties. Prima



facie, we are in agreement with the learned Addl. Solicitor General that the matters need to be remanded back enabling the appellants herein i.e. Union of India as also such of those respondents, who could not file their response in opposition to the writ petitions to file response.

The Addl. Solicitor General argues that the writ petitions ought not to have been allowed for they were: (a) speculative in nature, (b) barred by constructive res judicata, (c) fit to be dismissed on account of delay and laches, which fact is seriously objected by Mr. Ashish Giri. (d) Also what is canvassed is as to whether the judgment rendered in Harinagar Sugar Mills Ltd. (supra) is judgment in personem or rem.

Without going into the factual aspect and leaving the contentions open, considering the fact that the Union of India could not file its affidavit in response to the writ petitions and the fact that crores of money is involved, as also that the learned Single Judge has not dealt with any one of the legal issues canvassed before this Court, we remit the matter back by setting aside the judgment dated 27.02.2017 passed in C.W.J.C. No. 4438 of 2009 (M/S Riga Sugar Company Limited Vs. The Union of India & Ors.) and other analogous writ petitions with the further directions:



(a) Writ petitions bearing C.W.J.C. Nos. 4438 of 2009, 4439 of 2009 and 13205 of 2010 stand revived to the original number and position to be listed before the learned Single Judge on 06.01.2020.

(b) Union of India as also such of those respondents who have not filed their response or additional response, shall positively do so within a period of two months thereafter. Rejoinder to the same within a period of four weeks. All such issues are left open to be considered and decided in accordance with law.

The appeals filed against the order of the Writ Court i.e. L.P.A. Nos. 999 of 2019, 1001 of 2019, 1003 of 2019, 1057 of 2019, 1058 of 2019 and 1061 of 2019 are allowed and the appeals filed against the order passed in C. Review petitions i.e. L.P.A. Nos. L.P.A. Nos. 1048 of 2019, 1049 of 2019, 1052 of 2019, 1055 of 2019, 1059 of 2019 and 1060 of 2019 are dismissed as withdrawn.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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