

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No. 146 of 2019

Sanjay Kumar, Son of Sri Awadh Bihari, Resident of Dumwalia, P.S.- Bagaha-2, District- West Champaran, Proprietor of M/S Sanjay Rice Mill, Dumwalia, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. -2, Patna-800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

with
REQUEST CASE No. 109 of 2019

M/s Arti Mini Rice Mill, Baijnayhpur through its Proprietor Yuvraj Bhagat, Male aged about 42 years son of Late Satyadeo Bhagat, resident of Village and Post- Baijnathpur, P.S.- Sour Bazar, District- Saharsa.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd., Patna through the Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No.2, Patna-1.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd. Khadya Bhawan, Daroga Rai Path, R-Block, Road No.2, Patna-1.
3. The Chief of Finance/Claim, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No.2, Patna-1.
4. The General Manager of Claim, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R-Block, Road No.2, Patna-1.
5. The District Manager, State Food and Civil Supplies Corporation Ltd., Saharsa, District- Saharsa.

... .. Respondent/s

with
REQUEST CASE No. 110 of 2019

M/s G. Aditya Rice Mill through its Proprietor Sri Rajan Kumar Jha, Son of Late Chet Narayan Jha, aged about 33 Years, Gender-Male, Resident of Village- Adhkhanni, P.o.- Parihar, District- Sitamarhi

... .. Petitioner/s

Versus

The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Shankar Chowk, Dumra, Distt.- Sitamarhi



... .. Respondent/s

with

REQUEST CASE No. 113 of 2019

Anand Bhushan, Son of Sitaram Singh, Resident of Paschim Tola, P.S.-
Bakhtiyarpur, District- Patna, Proprietor of M/S. Sita Ram Rice Mill,
Bakhtiyarpur, Patna.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.-2, Patna-800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, Bakhtiyarpur, Patna.

... .. Respondent/s

with

REQUEST CASE No. 115 of 2019

Manoj Kumar Singh, S/O.- Late Ramvinay Singh, Prop. M/S Tola Birta
Bairiya Pacs Rice Mill, R/O. village- Bairiya (Ram Singh Tola), P.S.-
Ramgarhwa, Dist.- East Champaran.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd., Through Managing Director, B.S.F.C. R- Block, Patna, 800001.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd, B.S.F.C. R- Block, Patna, 800001.
3. The District Manager, B.S.F.C. East Champaran at Motihari, 845401.

... .. Respondent/s

with

REQUEST CASE No. 117 of 2019

Raju Kumar Jaiswal, Son of Nandlal Prasad, Resident of Ward No. 10,
Langari, P.S.- Bettiah, District- West Champaran, Proprietor of M/S. Jai Mata
Di Rice Mill, West Champaran.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.-2, Patna-800001.
2. The District Manager Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

with



REQUEST CASE No. 118 of 2019

Om Prakash S/o Raghunath Prasad Resident of Sisaundha, Dhansoi, P.S.-
Buxar, District- Buxar, Proprietor of M/S Shree Ram Mini Rice Mill, Buxar

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001
2. The District Manger Bihar State Food and Civil Supply Corporation Limited, Buxar

... .. Respondent/s

with

REQUEST CASE No. 119 of 2019

M/s Gulab Rice Mill Simri Bakhtiarapur, Kumedan Tola, Saharsa through its proprietor Arbind Kumar Bhagat, Male, aged about 43 years son of late Bhuneshwari Bhagat, resident of village- Amba, P.s.- Supaul, Distt.-Saharsa

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd. Patna through the Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001
2. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001
3. The Chief of Finance/Claim, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001
4. The General Manager of Claim, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001
5. The District Manager State Food and Civil Supply Corporation Limited, Saharsa, Distt.-Saharsa.

... .. Respondent/s

with

REQUEST CASE No. 123 of 2019

Om Prakash Gupta S/o Sri Bhagwan Sah Prop. of M/s Om Mini Rice Mill, resident of Village- Beda, P.s.- Sasaram (Muffasil), Distt.-Rohtas

... .. Petitioner/s

Versus



1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001, through its Managing Director
2. The Managing Director Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan,
3. The District Manager Bihar State Food and Civil Supplies Corporation Limited, Rohtas, Sasaram

... .. Respondent/s

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with

REQUEST CASE No. 124 of 2019

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Chandan Prasad, Son of Yamuna Prasad, Resident of Naya Tola Shanichri Chowk, P.S.-Shanichri, District-West Champaran, Proprietor of M/S Bhagwati Rice Mill, West Champaran.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001.
2. The District Manager, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

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with

REQUEST CASE No. 125 of 2019

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Rita Jayswal, Wife of Umashankar Jayswal, Resident of Malahi tola, Ward No.1, Balua Rampur, Rampurwa, P.S.- Bairia, District- West Champaran, Proprietor of M/S. Ritu Rice Mill, Bairia, West Champaran.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

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with

REQUEST CASE No. 126 of 2019

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Prop. Sahindra Kumar Yadav, (Male) Aged about 48 Years, Son of Late Parmeshwari Yadav, Proprietor of A One Rice Mill, R/o Bhagwanpur, Police Station- Saur Bazaar, District- Saharsa.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R. Block, Road No. 2, Patna- 800001, Through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R. Block, Road No. 2, Patna- 800001. Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Saharsa.
4. The District Magistrate, Saharsa.
5. The District Certificate Officer, Officer Cum Senior Deputy Collector, Saharsa.

... .. Respondent/s

with

REQUEST CASE No. 128 of 2019

Chandan Singh, Son of Rajendra Prasad Singh, Resident of Village- Saurudih, Police Station- Sonhan, District- Kaimur, Proprietor of Gurukirpa Rice Mill, Khanaithi, Sonhan, District- Kaimur.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supply Corporation Through its Managing Director, Sone Bhawan, R. Block, Patna.
2. The District Magistrate, Kaimur.
3. The Director-cum- Certificate Officer Kaimur, Bhabua.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., District- Kaimur.

... .. Respondent/s

with

REQUEST CASE No. 129 of 2019

Sharda Prasad Singh, Son of Sri Ambika Singh, Prop. of M/s Maa Bhawani Rice Mill, Resident of Village-Charan, P.S-Mali, Aufangabad, District- Aurangabad.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited, Khadya



Bhawan, Daroga Prasad Path, R. Block, Road No. 2, Patna-800001, Through its Managing Director.

2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Aurangabad.

... .. Respondent/s

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with
REQUEST CASE No. 130 of 2019

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Amindar Kumar Singh @ Amindar Singh S/o Haridwar Singh, Proprietor of M/S Sikriwal Rice Mini Mill, Bagadhi, Resident of Village of Bagadhi, P.S.- Ramgarh, Distt.-Kaimur (Bhabua)

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, patna-800001, through its Managing Director
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, patna-800001
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited Kaimur.

... .. Respondent/s

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with
REQUEST CASE No. 131 of 2019

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Shreeprakash Sharma, Son of Late Ramnandan Singh, Proprietor of Mamta Mini Rice Mill, Bihta, Resident of village Datiyana, P.s.- Bikram, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Madhubani.

... .. Respondent/s



with
REQUEST CASE No. 132 of 2019

Jay Prakash Sah Son of Thakur Sah, Proprietor of M/s Durga Food Product.
Resident of Village-Baghani Kala, P.S.-Mohania, District-Kaimur.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block Road, No.2, Patna-800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.2, Patna-800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur.

... .. Respondent/s

with
REQUEST CASE No. 133 of 2019

Sanjay Kumar Singh, son of Shree Laxman Singh, Proprietor of M/S Jai MaaMundeshwari Rice Mill, Resident of Kandehra, Police Station- Kundra, Dist.- Kaimur (Bhabua), Bihar.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R- Block, Road No. 2, Patna- 800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No. 2, Patna- 800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur.

... .. Respondent/s

with
REQUEST CASE No. 134 of 2019

Mukesh Kumar Singh, Son of Ramadhin Singh, Proprietor of M/S Jai Mata Di Mini Rice Mill, Resident of Village of Bahuara, P.O.- Nateyan, Nataya, District- Kaimur, Bihar.

... .. Petitioner/s

Versus



1. The Bihar State Food and Civil Supplies Corporation Limited, KhadyaBhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, KhadyaBhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur.

... .. Respondent/s

with
REQUEST CASE No. 135 of 2019

Rakesh Ranjan, Son of Dinesh Prasad Gupta, Proprietor of M/S Ayus Rice Mill, Resident of Village of Shikarganj, P.O. and P.S.- Shikarganj, District- East Champaran (Motihari), Bihar.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.2, Patna- 800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.2, Patna- 800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Motihari.

... .. Respondent/s

with
REQUEST CASE No. 136 of 2019

Subodh Kumar, Son of Late Shyam Narayan Prasad, Proprietor of M/S Karan Dayal Rice Mill, Resident of Village- Basaniyawa, P.O.- Nuhav, P.S. Chhabilapur, District- Nalanda.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R- Block, Road No. 2, Patna- 800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No. 2, Patna- 800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Nalanda.



... .. Respondent/s

with
REQUEST CASE No. 137 of 2019

Manoj Kumar Singh Son of Ramsrit Chaudhari, Proprietor of M/S Mamta Mini Roca Mill, Resident of Village of Baghini Kala, P.S.-Barhupar, District-Kaimur (Bhahua).

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya BHawan Daroga Prasad Path, R- Block Road No.2, Patna-800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No.2, Patna-800001.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur.

... .. Respondent/s

with
REQUEST CASE No. 138 of 2019

Santosh Kumar Ray alias Santoh Kr. Rai, Son of Manik Chand Rai, Proprietor of M/S Jhandu Mini Rice Mill, Resident of Village of Bhurkur, P.O. and P.s. - Mohania, District- Kaimur, Bihar.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna- 800001, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001,
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur.

... .. Respondent/s

with
REQUEST CASE No. 139 of 2019

Rajiv Kumar Singh @ Rajeev Kumar Singh S/o Ramdeo Singh, Proprietor of Triputi Balaji Mini Rice Mill, Resident of Village- Nuaon, P.S- Durgawati, Distt.-Kaimur



... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, patna-800001 through its Managing Director
2. The Managing Director Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, patna-800001
3. The District Manager Bihar State Food and Civil Supplies Corporation Limited, Kaimur

... .. Respondent/s

with

REQUEST CASE No. 140 of 2019

Ashok Kumar Singh S/o Shri Badri Singh, Proprietor of Shri MahadevJee Mini Rice Mill, Resident of Village- Dulahi, P.S.- Chand, Distt.-Kaimur (Bhabhua)

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, patna-800001, through its Managing Director
2. The Managing Director Bihar State Food and Civil Supplies Corporation Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-800001
3. The District Manager Bihar State Food and Civil Supplies Corporation Limited, Kaimur

... .. Respondent/s

with

REQUEST CASE No. 141 of 2019

M/s Jai Maa Mundeshwari Minni Rice Mill Through its proprietor Anil Singh son of Lalita Singh, R/o Village Siyaruwa- Asaura, P.S. Ramgarh, District Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Kaimur at Bhabua.
2. The Managing Director Bihar State Food and Civil Supplies Corporation Ltd, Bihar Patna.

... .. Respondent/s



with
REQUEST CASE No. 142 of 2019

Lal Babu Mishra, Son of Hari Shankar Mishra, Resident of Shiv Raj Pur, P.S.-
Nautan Bettia, District-West Champaran, Proprietor of M/S Om Rice Mill,
Shiv Rajpur, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan Daroga Prasad Path, R-Block Road, NO.-2, Patna-800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

with
REQUEST CASE No. 147 of 2019

Ishwar Chand Prasad, Son of Late Mahavir Prasad Proprietor of Pirari Krishi Sahyog Samiti, resident of Village- Pirari, P.S.- Inarwa District- West Champaran, Proprietor of M/S Pirari Kishi Sahyog Samiti, West Champaran.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No. -2, Patna - 800001.
2. The District Manager, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

with
REQUEST CASE No. 148 of 2019

Chandra Mohan Prasad, son of Sri Babu Lal Sah, resident of Chanpatia Ward No. 2, P.S.- Chanpatia, District- West Champaran, Proprietor of M/S Vaishnav Rice Mill, Industrial Area, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan, Daroga Prasad Path, R- Block, Road No.- 2, Patna- 800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, West Champaran.



... .. Respondent/s

with

REQUEST CASE No. 149 of 2019

Ajay Kumar @ Ajay Kumar Jaiswal, Son of Late Gopi Nath Jaiswal, Resident of Purani Bazar, P.O.-Narkatiyaganj, P.S.-Sikarpur, District-West Champaran, Proprietor of M/S Aniket Modern Rice Mill Udyog Industrial Area, Kumar Bagh, West Champran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan Daroga Prasad Path, R-Block Road, NO.-2, Patna-800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited. West Champaran.

... .. Respondent/s

with

REQUEST CASE No. 150 of 2019

Shyam Kumar Jaiswal, son of Gopi Nath Jaiswal, Resident of Purani Bazar, O.P.- Narkatiyaganj, P.s.- Sikarpur, District- West Champaran, Proprietor of M/S Ajay Rice Mill, Sugar Mill Road, Narkatiyaganj, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. - 2, Patna 800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

with

REQUEST CASE No. 151 of 2019

Yamuna Singh S/o Late Shiv Bachan Singh Resident of Village- Sonbarsa, P.S.- Mohania, Distt.-Kaimur, Proprietor of Manish Mini Rice Mill, Bhatti, Mohania, Distt.- Kaimur.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supply Corporation through its Managing Director, Sone Bhawan, R. Block, Patna



2. The District Magistrate Kaimur
3. The Director-cum-Certificate Officer Kaimur, Bhabhua
4. The District Manager Bihar State Food and Civil Supply Corporation Ltd.
District- Kaimur

... .. Respondent/s

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with
REQUEST CASE No. 152 of 2019

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Vijay Kumar, Son of Sri Pappu Saw, Resident of Naya Bazar, P.S. Lakhisrai,
District-Lakhisarai, Proprietor of M/S New Bihar Mini Rice Mill, Lakhisarai.

... .. Petitioner/s

Versus

The Managing Director, Bihar State Food and Civil Supply Corporation
Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. 2, Patna-
800001.

... .. Respondent/s

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with
REQUEST CASE No. 153 of 2019

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Sagir Ansari Son of Late Halim Ansari Resident of Village-
MaghiyaKagauliya P.O.- Tikulia, P.S.- Chanpatia, District- West Champaran,
Proprietor of M/S Javed Rice Mill, Chanpatia, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation
Limited Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.-2, Patna-
800001.
2. The District Manger Bihar State Food and Civil Supply Corporation
Limited, West Champaran.

... .. Respondent/s

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with
REQUEST CASE No. 154 of 2019

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Madan Prasad Arya @ P. Madan Prasad, Son of Late Badari Prasad, resident
of Old Bazar, P.S.- Shikarpur, District- West Champaran, Proprietor of M/S
Ganesh Rice Mill, Narakatiaganj, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation
Limited, Khadya Bhawan, Daroga Prasad Path, R- Block, Road No. -2,
Patna - 800001.



2. The District Manager, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

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with
REQUEST CASE No. 155 of 2019

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Nand Kishore Prasad, son of Vijay Kumar Gupta, Resident of Chanpatia Ward No.- 7, P.S. Chanpatia, District- West Champaran, Proprietor of M/S Ekta Rice Mill, Industrial Area, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan, Daroga Prasad Path, R- Block, Road No.- 2, Patna- 800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

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with
REQUEST CASE No. 156 of 2019

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Ajay Kumar Gupta, son of Sri Bindhyachal Prasad, Resident of Gandhi Nagar, P.S.- Bagaha-1, District- West Champaran, Proprietor of M/S Maa Bindhayachal Shiv Shakti Rice Mill, bagaha-1, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No.-2, Patna- 800001.
2. The District Manager, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

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with
REQUEST CASE No. 157 of 2019

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Lal Babu Prasad S/o Sri Fulena Sah, Resident of village- Navganwan, P.S.- Yogapatti, District- West Champaran, Proprietor of M/s Raj Rice Udhog, Industrial Area, Kumarbag, West Champaran, Bettiah

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. -2,



Patna-800001

2. The District Manager Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

with

REQUEST CASE No. 158 of 2019

Bipin Kumar Singh @ Bipin Kumar, Son of Late Paryag Singh, Resident of Village-Hasanpur, P.S.-Lakhisarai, District-Lakhisarai, Proprietor of M/S Laxmi Rice Mill, Lakhisarai.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Khadya Bhawan, Daroga Prasad Path, R-Block, Road No. -2, Patna-800001.
2. The District Manger, Bihar State Food and Civil Supply Corporation Limited, Jamui.

... .. Respondent/s

with

REQUEST CASE No. 159 of 2019

Om Prakash Gupta, Son of Sri Suresh Prasad, Resident of Piprahiya, P.O.- Nawalpur, P.S.- Nawalpur, District- West Champaran, Proprietor of M/S Jai Mata Di Trading and Milling, Industrial Area, Kumar bagh, West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The Managing Director, Bihar State Food and Civil Supply Corporation Limited Khadya Bhawan, Daroga Prasad Path, R- Block, Road No.-2, Patna-800001.
2. The District Manager, Bihar State Food and Civil Supply Corporation Limited, West Champaran.

... .. Respondent/s

Appearance:

(In REQUEST CASE No. 146 of 2019)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv.

(In REQUEST CASE No. 109 of 2019)

For the Petitioner/s : Mr. Nityanand Mishra, Advocate



For the Respondent/s : Mr. Amarjeet Prabhakar, Advocate
Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh
Mr. Siddharth Harsh, Advocate
(In REQUEST CASE No. 110 of 2019)
For the Petitioner/s : Mr. Birendra Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate
(In REQUEST CASE No. 113 of 2019)
For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv
(In REQUEST CASE No. 115 of 2019)
For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv
(In REQUEST CASE No. 117 of 2019)
For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Ranjan Kumar Srivastava, Advocate
(In REQUEST CASE No. 118 of 2019)
For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate
(In REQUEST CASE No. 119 of 2019)
For the Petitioner/s : Mr. Nityanand Mishra, Advocate
Mr. Amarjeet Prabhakar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Agreya Pratap, Advocate
(In REQUEST CASE No. 123 of 2019)
For the Petitioner/s : Mr. Jai Prakash Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
(In REQUEST CASE No. 124 of 2019)
For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
(In REQUEST CASE No. 125 of 2019)
For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate
(In REQUEST CASE No. 126 of 2019)
For the Petitioner/s : Mr. Ajit Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Ranjan Kumar Srivastava, Advocate
(In REQUEST CASE No. 128 of 2019)
For the Petitioner/s : Mr. Shyam Bihari Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate



Mr. Rajeshwar Prasad, Advocate
Mr.S. Raza Ahmad (AAG 5)
Mr. Alok Ranjan AC to AAG-5
(In REQUEST CASE No. 129 of 2019)
For the Petitioner/s : Mr.Jai Prakash Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Ranjan Kumar Srivastava, Adv.
(In REQUEST CASE No. 130 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate
(In REQUEST CASE No. 131 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv
(In REQUEST CASE No. 132 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Umesh Prasad, Advocate
(In REQUEST CASE No. 133 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv
(In REQUEST CASE No. 134 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Ms. Anukriti Jaipuriyar, Advocate
(In REQUEST CASE No. 135 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Ranjan Kumar Srivastava, Advocate
(In REQUEST CASE No. 136 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Ranjan Kumar Srivastava, Advocate
(In REQUEST CASE No. 137 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Agreya Pratap, Advocate
(In REQUEST CASE No. 138 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate
(In REQUEST CASE No. 139 of 2019)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate



(In REQUEST CASE No. 140 of 2019)

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Agreya Pratap, Advocate

(In REQUEST CASE No. 141 of 2019)

For the Petitioner/s : Mr.Tribhuwan Narayan, Advocate
Ms. Mukul Kumari, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate

(In REQUEST CASE No. 142 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate

(In REQUEST CASE No. 147 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Ms. Anukriti Jaipuriyar, Advocate

(In REQUEST CASE No. 148 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv

(In REQUEST CASE No. 149 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Rajeshwar Prasad, Advocate

(In REQUEST CASE No. 150 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Ranjan Kumar Srivastava, Advocate

(In REQUEST CASE No. 151 of 2019)

For the Petitioner/s : Mr. Shyam Bihari Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Rajeshwar Prasad, Advocate

(In REQUEST CASE No. 152 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate

(In REQUEST CASE No. 153 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv

(In REQUEST CASE No. 154 of 2019)

For the Petitioner/s : Mr.Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate

(In REQUEST CASE No. 155 of 2019)



For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Rajeshwar Prasad, Advocate

(In REQUEST CASE No. 156 of 2019)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Agreya Pratap, Advocate

(In REQUEST CASE No. 157 of 2019)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Bishwa Bibhuti Kumar Singh, Adv.

(In REQUEST CASE No. 158 of 2019)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Agreya Pratap, Advocate

(In REQUEST CASE No. 159 of 2019)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar Senior Advocate
Mr. Shailendra Kumar Singh, Advocate
Mr. Siddharth Harsh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

C.A.V. JUDGMENT

Date: 03-07-2020

The Bihar State Food and Civil Supplies Corporation Ltd. (hereinafter referred to as the Corporation) agreed with the Food Corporation of India (FCI), for implementing the Scheme. Paddy procured from the farmers was to be converted into rice and purchased by FCI. Such Paddy procured by the Corporation was to be processed by private parties, i.e. the Rice Millers under and in terms of separate agreements executed between them.



2. The Corporation alleges defalcation of huge amounts as also fraud played by the Rice Millers, thus causing loss of Rs.1500 crores to the public exchequer. Concerning such acts, from the year 2014 onwards, Rice Millers as also Corporation have been litigating before various forums. For convenience, it is categorized as (i) proceedings initiated under the provisions of Bihar and Orissa Public Demands Recovery Act, 1914 (referred to as the Recovery Act), (ii) proceedings initiated under the provisions of the Arbitration and Conciliation Act, 1996 (referred to as the Arbitration Act), (iii) proceedings initiated under the Penal Laws of the land.

3. Hon'ble the Apex Court in **Arvind Tiwary Versus State of Bihar and another, (2018) 8 SCC 475** has broadly segregated the agreements entered by the Corporation with the Rice Millers into three categories. The first category of agreement contains the following clauses:

“That the Second Party with a monthly milling capacity of 400 MT of paddy shall furnish a bank guarantee equivalent to the value of paddy issued to him by the First Party for milling in the current procurement season and in case, he is issued an additional quantity of paddy for milling he shall to furnish an additional bank guarantee equivalent to the value of the amount of the additional paddy issued to him by the First Party. In case he is not capable of furnishing the above mentioned bank guarantee(s), he shall pledge unencumbered immovable property



belonging to him in the name of District Manager, Kaimur of the same amount or more, as certified by the competent authority Circle Officer/Sub-Divisional Officer. In the prescribed manner, for the entire value of paddy as per his milling capacity. However it will be mandatory for the Second Party to provide a minimum bank guarantee as per the milling capacity enumerated in the table below:

Sl. No.	Milling Capacity	Minimum Mandatory Bank Guarantee
1	UP to 2 MT per hour	Rs.5 lakh
2	More than 2 MT and upto 5 MT per hour	Rs.10 lakh
3	More than 5 MT per hour	

”

The second category of agreement contains the following clauses:

“ 2. The Second Party has monthly milling capacity of 1 ton of paddy but he has to furnish bank guarantee equivalent to the value of paddy taken by him for milling in concerned procurement season and in case, he requires further quantity of paddy for milling, he has to furnish further bank guarantee equivalent to value of paddy desired by him to be taken for milling. However, he has to deliver C.M.R. in time before next lot of paddy is taken from him. The said bank guarantee of Rs..... issued in favour of District Manager, Bihar Food & Civil Supplies Corporation Ltd. vide series No.....dated..... has been submitted by the second party as per State Government Instruction from time to time.

3. The second party is at liberty to take paddy for milling as the quantity, he desired during the said procurement season in accordance with his monthly milling capacity but, he has no further bank guarantee for the value of the paddy, which, he takes for milling in case, he is not capable of furnishing bank guarantee, he had to pledge immovable property in the form of mortgage bond for amount or he can pledge immovable property for the entire value paddy which he takes for milling. The property details so mortgaged



must be certified to be in his own name by the competent authority either by circle officer of the block or SDO of the concerned Sub division so that in case of default of second party or any deviation of paddy may be recovered.”

And the third category of agreement contains the following clause:

“2. After delivery of rice to the Corporation proportionate paddy will be issued to the miller by Bihar State Food & Civil Supplies Corporation Ltd.

3. Rice will be accepted in the same Gunny bags in which the paddy is delivered by the Corporation. For the first consignment/lot, rice will be delivered by the miller in new SBT gunnies. The excess gunny bags will be returned by the miller and if retained by the Miller of excess gunny bags (in which paddy supplier miller) will be deducted by the Corporation @ 60% of net wages price from the bills submitted by the miller.”

4. Before this Court, existence of agreement(s) is not in dispute. For ready reference, relevant Clauses of the agreement with which we are concerned, similar in nature, are reproduced as under:

“15. The second party agrees that in case, any amount found recoverable on account of default, loss, damage on the part of the second party, the said recoverable amount with interest will be recovered as Land Revenue under Bihar & Orissa Public Demands Certificate Act, 1914, by instituting Certificate case before the concerned District Certificate Officer.”

“16. In case of disputes both parties agree to settle the issue(s) on mutual discussions. Failure to reach agreement the matter will be referred to Arbitrator. It has been also agreed that the Arbitrator will be District Collector of the concerned District whose



decision shall be final, concerning the dispute referred to him."

5. The Court now proceeds to take note of previous litigations about such agreements.

Proceeding under the Provisions of the Bihar and Orissa Public Demands Recovery Act, 1914 (referred to as the Recovery Act)

6. With the dispute arisen with the Rice Millers, after due deliberation, the Corporation decided to invoke the provisions of the Recovery Act in terms of Clause 15 of the agreement.

7. Under the said Act, the Certificate Officer issues a certificate defined under sub-section (3) of Section 3, to be served upon the certificate-debtor also defined therein. The said certificate-debtor has a right to file a petition under Section 9, denying his liability in whole or in part, which fact, is required to be determined by the Certificate Officer. The Act itself provides for a mechanism of adjudication by a Superior Authority, including by way of an appeal.

8. It is not in dispute that (a) such proceedings also stand initiated against the parties to the present *lis*; (b) certain Rice Millers may or may not have responded to the notice; (c) now such proceedings initiated in the year 2013-14 are either nearing completion or already stand concluded.



9. Such action initiated by the Corporation stood challenged by some of the Rice Millers and Mihir Kumar Jha, J. while disposing of a bunch of petitions, in **Civil Writ Jurisdiction Case No.9133 of 2014 titled as M/S Shivam Mini Modern Rice Mill Vs.The State of Bihar & Ors., CWJC No.12355 of 2014 titled as M/S Bakaur PACS Rice Mill- Vrs.- The State of Bihar & Ors. and CWJC No.12356 of 2014 titled as Shyam Chandra Kumar, S/O Ekbal Sah, Proprietor Shivam Rice Mill, Sonbarsa, Sitamarhi- Vrs.-The State of Bihar**, observed that:

“11. Having held so, this must clarify that the powers of the Corporation for resolution of the dispute as raised by the petitioners by way of conciliation proceedings in terms of Clause 16 of the agreement or for that purpose the forum of the Collector by way of arbitration proceeding shall not be closed. Thus, if the petitioners would file their separate representation before the Managing Director of the Corporation disputing the correctness of the impugned demand notice on any ground whatsoever, the competent authority of the Corporation will thereafter do the needful in terms of Clause 16 of the Agreement and in case the petitioners do not get any relief in such conciliation proceeding from the authorities of the Corporation, they would be still entitled to seek reference for Arbitration before the Collector of the District.

12. Mr. Pradhan has, in fact, assured that if the petitioner would file his representation against the demand notice, the same shall also be disposed of expeditiously so that if the petitioner becomes aggrieved on account of refusal of settlement of dispute by the Corporation, he can take recourse to arbitration proceedings. He has also assured that till disposal of the representation, no further coercive action will be taken against the petitioner beyond what



has already been taken against him in terms of the agreement.

13. It is, however, made clear that if in the mean time any criminal case or certificate proceeding has already been initiated against the petitioners, the same shall not be in any way adversely affected, in keeping with Clause 12 and 15 of the agreement which empowers the Corporation to take legal action including recovery of the amount due from the petitioners by way of certificate proceedings under the Bihar Public Demand Recovery Act, 1914.”

(Emphasis supplied)

10. Yet in another set of Petition, Mihir Kumar Jha, J. vide judgment dated 22.07.2014 passed in **C.W.J.C. 7736 of 2014 titled as M/S Shiv Industries Vrs. The State of Bihar & Ors** also observed that:

“11. At this stage, learned counsel for the petitioner has submitted that if the petitioner is directed to avail the remedy of filing objection under Section 9 of the Act, there is every possibility of the proprietor of the petitioner company being arrested, inasmuch as, the petitioner had not appeared in the certificate proceeding whereafter an order for taking coercive steps including warrant of arrest may have been issued.”

11. Further, Mihir Kumar Jha, J. vide order dated 23.7.2014 passed in **CWJC No.8172 of 2014 titled as Arvind Kumar, Son of Late Sri Kishori Mahto – Vrs. – The State of Bihar & Ors.** observed that: -

“9. This Court, however, is not aware as to whether any criminal case and/or certificate



proceeding has been launched in the case of the petitioner and, therefore, when the petitioner himself wants to get the dispute settled by approaching the authorities of the Corporation by way of conciliation in terms of Clause-16 of the agreement all that this Court can observe is that if the petitioner would file his representation, as against the impugned demand notice before the Chairman-cum-Managing Director of the Corporation, efforts will be made to settle the dispute by the competent authority of the Corporation and in the event on failure of such settlement by way of conciliation between the petitioner and the Corporation, it would be always open for the petitioner to take recourse to Arbitration in terms of Clause 16 of the agreement, which is a compact clause in the agreement for both conciliation followed by Arbitration.

10. Mr. Pradhan has, in fact, assured that if the petitioner would file his representation against the demand notice, the same shall also be disposed of expeditiously so that if the petitioner becomes aggrieved on account of refusal of settlement of dispute by the Corporation, he can take recourse to arbitration proceedings. He has also assured that till disposal of the representation, no further coercive action will be taken against the petitioner beyond what has already been taken against him in terms of the agreement.

11. In that view of the matter, this Court would give liberty to the petitioner to avail the remedy given in Clause 16 of his agreement provided for resolution of dispute to be raised by him initially by way of conciliation before the authorities of the Corporation and in the event on failure of such settlement of dispute in course of such conciliation, it will be always open for the petitioner to take recourse to arbitration proceeding before the named Arbitrator namely Collector of the District.”

(Emphasis supplied)



12. Being dis-satisfied with the order passed by the learned Single Judge, the Rice Millers preferred an Appeal, in which L. Narasimha Reddy, CJ and Sudhir Singh, J. vide order 17.04.2015 in **Letter Patent Appeal No.1709 of 2014 in Civil Writ Jurisdiction Case No.8172 o 2014 and its analogous cases titled as Arvind Kumar – Vs.- The State of Bihar & Ors.**, observed that:

"If it is well established that even in cases of such nature this Court certainly can interfere. However, one peculiar situation that emerges in these cases is that apart from enabling provision, i.e. Clause-15, the agreements contained Clauses 16 that provided for conciliation or Arbitration. It reads as under:-

"16. In case of disputes both parties agree to settle the issue(s) on mutual discussion. Failure to reach agreement the matter will be referred to Arbitrator. It has been also agreed that the Arbitrator will be District Collector of the concerned District whose decision shall be final, concerning the dispute referred to him."

From a perusal of this, it becomes clear that if there exists the dispute between the parties, the recourse must be had to conciliation, as a first step and, if that does not fructify, the steps need to be taken to get the dispute resolved through Arbitration. It is a different matter that the Collector is the named Arbitrator in all these cases.

Once the parties have agreed to a particular mode of resolution of dispute, that too, those covered by Arbitration and Conciliation Act, 1996, the question of entertaining the writ petition, in relation to that very dispute, does not arise. The plea of the appellants that the Arbitration by the Collector



may not be effective, can be certainly agitated before the proper forum, but not in the writ petition. Such a course would invariably be available in the process of availing the remedy of Arbitration, but not outside the same.

The Learned Single Judge has taken correct view of the matter in refusing to entertain the writ petitions after taking note of the existence of clauses providing for Arbitration. The interests of the appellants have already been adequately protected by stipulating time for the concerned authorities to take action in the event of any representations in terms of Clause 16 being made.”

13. A similar view was taken by the Division Bench vide order dated 23.3.2017 in **LPA No. 1391 of 2014, titled as M/s Shew Vijay Udyog vs. The State of Bihar & Ors.**, arising out of CWJC No. 7020 of 2014 and other analogous matters.

14. Here only it stands observed that some of the Rice Millers who had already resorted to Arbitration by invoking Clause 16, sought review of the order above dated 17.04.2015 passed in L.P.A No.572 of 2015 (**Arvind Kumar(supra)**)- analogous matter being **LPA No.572 of 2015 titled as Rohit Rice Mill Vs. The State of Bihar & others**) by filing **Civil Review No.150 of 2015 titled as Rohit Rice Mill Vs. The State of Bihar & others**. This application stood disposed of vide order dated 23.08.2016 with the following observations:

“Learned counsel for the review petitioner is aggrieved by Clause (B) of the operative part of the judgment in appeal, concerning payment of balance amount of certificate



proceedings. He submits that as per agreement as between the Corporation and the petitioner, there is a clause for Arbitration, and the dispute has been referred by him for Arbitration, which is pending. If the order, as passed, is allowed to operate then there would be no purpose for Arbitration, for, the Arbitrator could vary the amount, otherwise. Having considered the matter, the only observation we can make, is that the liability in the certificate proceedings would be dependent upon the outcome of arbitration case, which is said to be pending before the Collector, Jamui. We would only request the Collector-cum-District Magistrate, Jamui to enquire into the matter and if it is found that the review petitioner had filed an application for Arbitration in terms of Clause 16 of the agreement, as between the petitioner and the Corporation, he would dispose of the same within two months after hearing the parties. Consequently, the certificate proceedings would, accordingly, stand amended."

(Emphasis supplied)

15. This order has attained finality is a common case of the parties.

PROCEEDING UNDER THE ARBITRATION AND CONCILIATION ACT, 1996. (Arbitration Act)

16. It is a matter of record that some of the Rice Millers approached this Court seeking appointment of an Arbitrator under Section 11 (6) of the Arbitration Act.

17. Hon'ble Rajendra Menon, C.J., vide order dated 19.04.2017 passed in **Request Case No.8 of 2016, titled as Sadhna Kumari Vrs. The Bihar State Food & Civil Supplies Corporation Limited & Ors.** along with analogous matters allowed such petitions and appointed the Hon'ble Judges (Retd.) of this Court



as arbitrators. With the change of position in law, Collectors suffered disqualification and as such independent persons were appointed as arbitrators. Noticeably, Corporation objected on the ground of delay; petitioner(s) not having resorted to the process of reconciliation. One of the purported terms of the clause containing the arbitration agreement; petitioners have an equally efficacious alternate remedy under the Recovery Act and delay in filing the application seeking appointment of an arbitrator. The Court rejected all objections with the issue of delay left open to be considered by the Arbitrator.

18. Most significantly, affirming this order, the Hon'ble Apex Court, vide order dated 29.01.2018 passed in Petition (s) for **Special Leave to Appeal (C) No(s) 450 of 2018 titled as Bihar State Food and Civil Supplies Corporation Ltd. & Ors.- Vrs. Sadhna Kumari** directed the arbitral proceedings to be conducted on a day-to-day basis to be concluded within a period of three months, with the only modification of one Arbitrator having not more than 10 cases and that:

“All contentions available under the law to the parties before the arbitrator are left open to be gone into by the Arbitrator in accordance with law.”

19. Such direction stood complied by this Court in its modification proceedings **being Request Case No.2 of 2018**



titled as in Rakesh Kumar @ Rakesh Kumar Yadav Vs. The State of Bihar & Ors. vide order dated 01.08.2018.

PROCEEDINGS UNDER THE PENAL LAWS OF THE LAND

20. It is a matter of record that about the alleged fraud, Corporation got initiated action under the Penal Laws of the Land by getting registered an FIR at the concerned Police Station, prompting the Rice Millers to apply for regular/anticipatory bail. Such applications were allowed with a condition of deposit of 10-20% of the amount.

21. Aggrieved thereof, State preferred an appeal before the Hon'ble Supreme Court of India by way of a **Special Leave Petition to Appeal (Crl.) No(s).1779 of 2016 titled as State of Bihar Vrs. Divesh Kumar Chaudhary & Anr.**, which was disposed of vide order dated 28.02.2017, **(2018) 16 SCC 817** in the following terms:

- 4.1. The accused in all the FIR(s), will ensure that bank guarantee, if not furnished, is furnished and if lapsed, is renewed within a period of one month from today failing which the anticipatory bail/bail granted will stand cancelled.
- 4.2. The accused will cooperate with investigation/trial and their failure to appear, when required, will be a ground for cancellation of anticipatory bail/bail. An order of cancellation will be passed by the trial court on being satisfied about such failure.



- 4.3. The investigation will be completed within a period of three months.
- 4.4. All the accused will be tried only at five places viz. Patna, Gaya, Chhapra, Darbhanga and Purnia by officers of the appropriate rank determined by the High Court within one week from today. The High Court may specify the area of jurisdiction of the said five courts by a public order. If required by the High Court, the State Government may sanction extra strength of officers with requisite infrastructure so that normal work of courts is not disturbed on account of the special arrangement for these cases.
- 4.5. The officers posted will deal with these cases exclusively. If free from their work, any other work may be assigned to the said officers.
- 4.6. The authorities concerned will be at liberty to encash the bank guarantee(s) after holding that there is a breach of terms of the agreement which decision will be subject to appropriate remedies of the parties.
- 4.7. If not otherwise encashed, the bank guarantee will be kept alive till the trial is over. However, deposits/furnishing of bank guarantees will be abide by further orders of the trial court, interim or final.
- 4.8. If any amount is deposited by the accused, the said amount will be adjusted in the amount of the bank guarantee, which is to be furnished by the accused.
- 4.9. The accused will surrender their passports to the respective courts within a period of four weeks from today and will not leave the country without prior permission from the Court concerned.”

(Emphasis supplied)

22. What would be the amount of such bank guarantee stood clarified subsequently by the Court. Repelling the Corporation's



contention of the same being the total sum of the entire defalcated amount, the Supreme Court in **Arvind Tiwary Vs. State of Bihar and Another, (2018) 8 SCC 475** observed as under:

“a) The expression “Bank Guarantee” used in condition No.1 as stipulated in order dated 28.02.2017 passed by this Court pertains to bank guarantee which the concerned miller was obliged, in terms of the agreement in question to furnish. The obligation to furnish the bank guarantee and to keep it alive is referable to the terms of the agreement and not to the “defalcated sum” as was submitted by the Corporation.

b) If on account of failure to submit and to keep it alive in respect of the “defalcated sum”, any benefit of bail/anticipatory bail was withdrawn and orders of non-bailable warrants were issued, such orders stand cancelled and recalled. However the concerned millers ought to have furnished and kept alive bank guarantees as contemplated in terms of the agreement. If there be any failure on this count the cancellation of bail/anticipatory bail was perfectly justified.

c) The order dated 28.02.2017 passed by this Court would apply to every single case, irrespective whether the concerned miller was a party to the proceedings before this Court or not.

d) If any miller, in terms of the order dated 28.02.2017, had not furnished bank guarantee or had not kept it alive in terms of his obligations under the agreement, the facility of bail/anticipatory bail would not be available to him. The orders cancelling such facility stand confirmed and the challenge in that behalf is negated. All such millers shall be immediately taken in custody by the concerned police.

e) We permit the Corporation to secure its interest either by invoking the bank guarantees wherever furnished and or by putting to auction the unencumbered immovable property pledged by the millers with it, after due process of law.”

(Emphasis supplied)



23. Significantly, the order was made applicable with respect to all the Rice Miller whether party before the Court or not.

24. Relentlessly, though unsuccessfully, State again tried to reopen the issue, evident from yet **another subsequent order dated 25.10.2019 passed in M.A.No.1140 of 2019 in Criminal Appeal No.998 of 2018.**The supreme Court categorically observed that the condition of furnishing bank guarantee is restricted only as per agreement stipulation. As such, the issue qua those agreements containing a clause of furnishing a bank guarantee or providing adequate security by executing a deed of pledge/hypothecation stood closed.

25. This Court (Chakdradhari Sharan Singh, J.) in **Criminal Miscellaneous No. 52242 of 2013 titled as Satyendra Kumar Keshri Versus The State of Bihar & Ors.** has been monitoring the investigation and trial of the criminal cases initiated against the petitioner and other private parties.

Submission of the Parties.

26. Shri Anjani Kumar, learned Senior Advocate, Shri Shailendra Kumar Singh, Sri Ranjan Kumar Srivastava, Shri Agrey Pratap, Ms. Anukrity Jaipuriyar, Shri Bishwa Bibhuti Kumar Singh, Shri Siddharth Harsh, Sri Rajeshwar Prasad, Shri Umesh Prasad, learned counsel appearing on behalf of the



Corporation, have opposed the instant Petition (s) on the following grounds: (a) the issue of fraud and forgery cannot be adjudicated in arbitral proceedings; (b) petitions are barred by limitation. A stale claim is sought to be revived. The issue needs to be examined considering that for the State of Bihar provision of the sub-section (3A) of Section 43 stand omitted; (c) the Recovery Act being a special statute prevails over the Arbitration Act, thus leaving Clause 16 of the agreement otiose; (d) petitioners have an equally alternative efficacious remedy under the provisions of the Recovery Act; (e) by participating and not objecting to the proceedings initiated under the Recovery Act; petitioners waived off their right seeking appointment of an Arbitrator by not moving an application under Section 8 of the Arbitration Act; (f) petitions stand filed with a mala fide intent and oblique motive of procrastinating the proceedings under the Recovery Act, thus obstructing and impeding the course of justice; (g) petitioners have not furnished Bank Guarantee in compliance of orders passed by the Hon'ble Supreme Court in **Divesh Kumar Choudhary and Arvind Kumar** (supra); and (h) petitioners not approached the authorities for reconciliation, a condition precedent prior to the appointment of an arbitrator.



27. On the other hand, Shri Shashi Bhushan Kumar, Shri Sumeet Kumar Singh, Shri Jai Prakash Singh, Sri Nityanand Mishra, Shri Shyam Bihari Singh, Shri Birendra Kumar, Sri Ajit Kumar, Sri Ajay Kumar Singh, Sri Jai Prakash Singh, Shri Tribhuwan Narayan, learned counsel for the petitioner(s) have supported their submissions by relying upon judicial precedents.

Opinion of the Court

28. Clause 15 and Clause 16 of the agreement, respectively deal with parties rights under the provisions of the Recovery Act and the Arbitration Act.

29. That the parties lawfully entered agreement(s) containing the Clauses above is not in dispute. It is not the Corporation's case that any one of the agreements stood entered by committing an act of forgery. Factum of dispute arisen inter-se the parties is not in dispute. In fact, since the year 2014 onwards, parties have been continuously litigating before different forums. Also, the District Collector referred to Clause 16 of the agreement has curtailed disqualification.

30. It is submitted that the instant Petition(s) be dismissed for the petitioners caused wrongful loss by committing an act of fraud.



31. The Apex Court in **A. Ayyasamy V. A. Paramasivam and Ors, (2016) 10 SCC 386** distinguished a serious allegation of forgery/fabrication in support of the plea of fraud as opposed to a simple accusation of criminal Act. The twin test laid down read as follows: -

“25. In view of our aforesaid discussions, we are of the opinion that mere allegation of fraud simpliciter may not be a ground to nullify the effect of arbitration agreement between the parties. It is only in those cases where the Court, while dealing with Section 8 of the Act, finds that there are very serious allegations of fraud which make a virtual case of criminal offence or where allegations of fraud are so complicated that it becomes absolutely essential that such complex issues can be decided only by the civil Court on the appreciation of the voluminous evidence that needs to be produced, the Court can sidetrack the agreement by dismissing the application under Section 8 and proceed with the suit on merits. It can be so done also in those cases where there are serious allegations of forgery/fabrication of documents in support of the plea of fraud or where fraud is alleged against the arbitration provision itself or is of such a nature that permeates the entire contract, including the agreement to arbitrate, meaning thereby in those cases where fraud goes to the validity of the contract itself of the entire contract which contains the arbitration clause or the validity of the arbitration clause itself. Reverse position thereof would be that where there are simple allegations of fraud touching upon the internal affairs of the party inter se and it has no implication in the public domain, the arbitration clause need not be avoided and the parties can be relegated to Arbitration. While dealing with such an issue in an application under Section 8 of the Act, the focus of the Court has to be on the



question as to whether jurisdiction of the Court has been ousted instead of focusing on the issue as to whether the Court has jurisdiction or not. It has to be kept in mind that insofar as the statutory Scheme of the Act is concerned, it does not specifically exclude any category of cases as non-arbitrable. Such categories of non-arbitrable subjects are carved out by the Courts, keeping in mind the principle of common law that certain disputes which are of public nature, etc. are not capable of adjudication and settlement by Arbitration and for resolution of such disputes, Courts, i.e. public fora, are better suited than a private forum of Arbitration. Therefore, the inquiry of the Court, while dealing with an application under Section 8 of the Act, should be on the aforesaid aspect, viz. whether the nature of dispute is such that it cannot be referred to Arbitration, even if there is an arbitration agreement between the parties. When the case of fraud is set up by one of the parties and on that basis that party wants to wriggle out of that arbitration agreement, a strict and meticulous inquiry into the allegations of fraud is needed and only when the Court is satisfied that the allegations are of serious and complicated nature that it would be more appropriate for the Court to deal with the subject-matter rather than relegating the parties to Arbitration, then alone such an application under Section 8 should be rejected."

(Emphasis supplied)

32. Earlier also a similar view in the context of the Arbitration Act was taken by the Hon'ble Apex Court in **Swiss Timing Limited Versus Commonwealth Games 2010 Organizing Committee, (2014)6 SCC 677.**

33. In the instant Request case(s), there is no allegation that the documents were forged or fabricated. The assertion being that



Rice Millers did not hand over the entire quantity of rice to the Corporation, thus causing wrongful loss to the State exchequer. It is not a severe allegation of forgery/fabrication in support of the plea of fraud as opposed to the simple accusation. In a similar circumstance, where fraud was alleged the Hon'ble Apex Court in **Rashid Raza versus Sadaf Akhtar (2019) 8 SCC 710** referred the disputes to be adjudicated by an Arbitral Tribunal.

34. Hence, such contention needs to be rejected.

35. Instant petitions were filed in the latter part of the year 2019 and beginning of 2020. As noticed above, parties have been litigating before different forums since the year 2014.

36. Shri Anjani Kumar, learned Senior Advocate has emphasized on the chart indicating the dates when demand notices for recovery of dues stood issued to the petitioners. Noticeably save, and except for three cases where demand notices were issued in the year 2013, 2015 and 2019, in all other cases, it was issued sometime between May to July 2014.

37. Here only it is observed that this Court is dealing with two sets of petitions. The first set comprises Rice Millers who for the first time have filed petitions seeking appointment of an arbitrator in the years 2019 and 2020. The second set includes petitions where the Rice Millers had earlier approached this Court and in



the lead case being **Sadhna Kumari** (supra) vide order dated 19.4.2017 had appointed arbitrators. Subsequently, with the passing of the order by Hon'ble Apex Court in **Sadhna Kumari** (supra), this Court in **Rakesh Kumar @ Rakesh Kumar** (supra), (order dated 01.08.2018) changed the arbitrators ensuring that no arbitrators would have more than ten cases. Since parties could not afford the arbitral fee, prayer for seeking liberty of adjudication through an alternate Forum stood allowed vide order dated 8.2.2019 (copy whereof is not on record but such fact is not disputed). But Petitioners request stood dismissed on jurisdictional issue by the Bihar Public Works Disputes Arbitration Tribunal vide order dated 25.09.2019 in case No.107 of 2019, titled as Ishwar Chandra Prasad vs. Managing Director, Bihar State Food & Civil Supplies Corporation. Resultantly petitioners have again filed the instant Petition (s) on different dates commencing from 14th November 2019 onwards.

38. This Court in **Sadhna Kumari** (supra) has already considered and rejected all pleas seeking dismissal of similar applications in the appointment of the Arbitrator, with the issue of limitation left open to be considered by him. Court categorically dealt each of the objections raised by the Corporation be it the proceedings initiated under the Recovery Act; the limitation i.e.



delay in filing the Petition(s) seeking appointment of the Arbitrator, beyond the period of three years; before the invocation of the arbitration clause, parties not having approached the authorities for reconciliation in terms of the purported conditions, precedent contained in Clause 16 of the agreement, availability of an efficacious alternative remedy under the Recovery Act; parties not having invoked the provision of Section 8 of the Arbitration Act in the proceedings initiated under the Recovery Act; the Collector being the officer of the Corporation thus entailing disqualification for the appointment of the Arbitrator.

39. As such, in so far as the present *lis* is concerned, this Court finds no reason to differ with such a view. It is true that one bunch of these petitions stand filed after a period of three years of the issuance of Recovery Certificate, but that would not be the end-all in so far as adjudging cause of action, continuance in nature, is concerned.

40. The scope of the present Petitions is confined only for the relief of appointment of the Arbitrator and not the claims, for which the Court, *inter alia*, has to primarily consider the existence of an arbitration clause and arbitrability of the dispute. In the given facts, the question as to whether the period of limitation commenced, in terms of sub-section (2) of Section 43 and Section



21 of the Arbitration Act is required to be seen by the Arbitrator and not this Court.

41. In the second set of petitions whether the petitioner(s) are entitled to the benefit of Section 14 of the Limitation Act, to exclude the period of limitation or not is also an issue which is left open to be adjudicated by the Arbitrator.

42. This Court cannot ignore the fact that as late as 13th August of 2018, the Hon'ble Supreme Court in **Arvind Tiwary's case** (supra) had directed all the Rice Millers, parties or not before the Hon'ble Supreme Court, to furnish bank guarantee(s). Reference thereof may not be misconstrued for expression of opinion on merits, of the commencement of cause of action from such date. All this requires examination by the Arbitrator, based on the pleadings and the record placed by the parties.

43. Even post-issuance of the demand notice, Rice Mill Owners were called upon by the Corporation to settle the matter vide letter dated 5.6.2015. Further post registration of the FIR (month of May-June 2015) when the settlement became impossible Corporation directed adjustment of transportation and handling charges from the dues of the Rice Millers which is clear from communication dated 17.6.2016. Reference of such facts is only for understanding as to whether the dispute was live or long dead.



44. The Constitution Bench (five Judges) of the Hon'ble Supreme Court in **SBP & Co.- Vrs. Patel Engineering Ltd. (2005) 8 SCC 618** while elaborately dealing with the scope of Sections 8 and 11 of the Arbitration Act, also on the issue of limitation, categorically observed that: -

“39. It is necessary to indicate that he can also decide the question whether the claim was a dead one; or a long-barred claim that was sought to be resurrected and whether the parties have concluded the transaction by recording satisfaction of their mutual rights and obligations or by receiving the final payment without objection. It may not be possible at that stage, to decide whether a live claim made, is one which comes within the purview of the arbitration clause. It will be appropriate to leave that question to be decided by the arbitral Tribunal on taking evidence, along with the merits of the claims involved in the Arbitration. The Chief Justice has to decide whether the applicant has satisfied the conditions for appointing an arbitrator under [Section 11\(6\)](#) of the Act. For the purpose of taking a decision on these aspects, the Chief Justice can either proceed on the basis of affidavits and the documents produced or take such evidence or get such evidence recorded, as may be necessary. We think that adoption of this procedure in the context of the Act would best serve the purpose sought to be achieved by the Act of expediting the process of Arbitration, without too many approaches to the Court at various stages of the proceedings before the Arbitral Tribunal...

... 47. We, therefore, sum up our conclusions as follows:

The power exercised by the Chief Justice of the High Court or the Chief Justice of India under [Section 11\(6\)](#) of the Act is not an administrative power. It is a judicial power.”

(Emphasis supplied)



45. In any case, controversy on the point of limitation now stands put to rest in a recent decision of the Hon'ble Court in **Uttarakhand Purv Sainik Kalyan Nigam Limited vs. Northern Coal Field Limited (2020) 2 SCC 455**. On facts, for agreement dated 21.12.2010, one of the parties alleging non-payment, issued a legal notice dated 29.5.2013 and on 9.3.21016 invoked the arbitration clause seeking adjudication of disputes through Arbitration. About the same, a reminder sent on 30.5.2016. Failure of action prompted the party to approach the Court by filing a petition under Section 11 of the Arbitration Act on 20.09.2016. While rejecting the specific objection of limitation in the appointment of the Arbitrator, by taking note of Section 16 of the Arbitration Act, the Court observed that:

"In the present case, the issue of limitation was raised by the Respondent–Company to oppose the appointment of the Arbitrator under [Section 11](#) before the High Court. Limitation is a mixed question of fact and law. [In ITW Signode \(India\) Ltd. v. CCE](#) a three-Judge Bench of this Court held that the question of limitation involves a question of jurisdiction. The findings on the issue of limitation would be a jurisdictional issue. Such a jurisdictional issue is to be determined having regard to the facts and the law. Reliance is also placed on the judgment of this Court in [NTPC Ltd. v. Siemens Atkeingesellschaft](#), wherein it was held that the arbitral Tribunal would deal with limitation under [Section 16](#) of the 1996 Act. If the Tribunal finds that the claim is a dead one, or that the claim was barred by limitation, the adjudication of these issues would be on the merits of the claim. Under sub-section (5) of [Section 16](#), the Tribunal has



the obligation to decide the plea; and if it rejects the plea, the arbitral proceedings would continue, and the Tribunal would make the award. Under sub-section (6) a party aggrieved by such an arbitral award may challenge the award under Section 34. [In IFFCO Ltd. v. Bhadra Products](#) this Court held that the issue of limitation being a jurisdictional issue, the same has to be decided by the Tribunal under [Section 16](#), which is based on [Article 16](#) of the UNCITRAL Model Law which enshrines the Kompetenz principle.”

46. To Similar effect are earlier decisions rendered in **National Insurance Co. Ltd. Vrs. Boghara Polyfab (P) Ltd. (2009) 1 SCC 267**, in **State of Orissa and Another Versus Damodar Das (1996) 2 SCC 216**, in **Union of India Versus Momin Construction Company (1997) 9 SCC 97**, in **Union of India Versus Popular Construction Co. (2001) 8 SCC 470**, in **Panchu Gopal Bose Vrs. Board of Trustees for Port of Calcutta (1993) 4 SCC 338** by the Hon’ble Apex Court.

47. Also, in considering the issue of limitation, the Hon’ble Apex Court in **State of Goa Vrs. Western Builders (2006) 6 SCC 239** categorically held Section 14 of the Limitation Act applicable to the Arbitration Act. To similar effect is the decision rendered in **Indian Farmers Fertilizer Cooperative Limited Vrs. Bhadra Products (2018) 2 SCC 534**.



48. In so far as the present petitions are concerned, it cannot be said that the claim is stale, not live, or long dead. Certainly, the present petitions cannot be held to be barred by delay or laches or that there is inordinate delay in approaching this Court. As already observed, issue of limitation would be examined by the arbitrator.

49. Next it is contended that since petitioners failed to exercise their option under Section 8 of the Arbitration Act, by filing an appropriate application in the certificate proceedings hence the present petitions filed under Section 11 are not maintainable as petitioners waived of their right to invoke clause 16. The contention only needs to be repelled given the law laid down by the Apex Court in **SBP & Co.- (supra)** wherein the scope of both the provisions was considered and explained holding power exercised under the latter to be independent and not subject to the former.

50. The Hon'ble Apex Court in **Mayavati Trading Private Limited – Vrs.- Pradyut Deb Burman (2019) 8 SCC 714** had to deal with the issue of the amendment brought in the Arbitration Act omitting provisions of sub-section 6-A of Section 11 of the Act. The Apex Court has



explained the consequence of Legislative action in dealing the provisions of sub-section 6-A of Section 11 of the Act. Noticeably the decision rendered in **National Insurance Co. Ltd. Vrs. Boghara Polyfab (P) Ltd. (2009) 1 SCC 267**, on this issue stands overruled.

51. What requires consideration next is as to whether the petitioners' right under the Arbitration Act stands foreclosed in the light of proceedings initiated under the Recovery Act or not?

52. The answer is simple both on facts and law.

53. Under Clause 15 and 16 of the agreement, parties themselves chose to be governed by both the statutes, without ousting proceedings under the other. The language of the agreement is amply clear. The agreement itself stipulated two different situations.

54. Even in law, there cannot be any conflict or restriction. The Arbitration Act stands enacted under Part IV, Chapter I, Entry 13 of List 3 of the Schedule VII of the Constitution. By virtue of Article 234, the said statute would prevail over the Recovery Act which stands enacted by the State under its Legislative power flowing from List II of Schedule VII of the Constitution. The Arbitration Act



is a central, and subsequent legislation would prevail over the said State Legislation.

55. That apart, Section 64 of the Recovery Act clarifies the Act itself to be in addition to and not in derogation of any other law. It reads as under:

“Saving of other Acts. - The powers given by this Act shall be deemed to be in addition to, and not in derogation from, any powers conferred by any other Act now in force for the recovery of any due, debt or demand to which the provisions of this Act are applicable; and, except where expressly so provided. No legal remedy shall be affected by this Act.”

56. Matter needs to be examined from yet another angle. And that as to whether there is any conflict between the two statutes at all or not. A careful reading of both the Statutes only leads to an inescapable conclusion of not being so. More so considering the ambit and scope of both the legislations. The Arbitration Act provides a mechanism for adjudication of disputes, which can be by way of a claim and counterclaim inter se the parties to the agreement. Whereas the Recovery Act provides for a mechanism for determination of public debt and recovery thereof, by way of a particular procedure. It is not as though with the issuance of a mere notice, all amounts are deemed to be recoverable as public debt. What requires consideration is whether the debt can be classified as a public demand or not. There is no mechanism for



the adjudicatory process of the disputes or claims of a private party under the Recovery Act. The proceedings under the Recovery Act are summary in nature, based on admitted, certain or unsustainable objections rather than the lengthy process of adjudication of a dispute, be it monetary or otherwise.

57. Section 3 of the Bihar & Orissa Public Demands Recovery Act, 1914 defines the certificate debtor, certificate officer and public demand as under:

“(1) *"certificate debtor"* means the person named as debtor in a certificate filed under this Act and includes any person whose name is substituted or added as debtor by the Certificate Officer;

(3) *"Certificate-Officer"* means a Collector, a Sub-Divisional Officer, and any officer appointed by a Collector, with the sanction of the Commissioner, to perform the functions of a Certificate Officer;

(6) *"Public Demand"* means any arrear or money mentioned or referred to in Schedule I, and includes any interest which may by law, be chargeable thereon upto the date on which a certificate is signed under Part II. .”

58. By virtue Section 4, whenever the Certificate Officer is satisfied that any public demand payable to the Collector is due, he may sign a certificate in the prescribed form stating that the demand is due and shall cause the Certificate filed in his office. Under Section 5, when any public demand payable to any person other than the Collector is due, such person may send the Certificate Officer a written requisition in the prescribed form.



By Section 6 of the Recovery Act, on receipt of any such requisition, the Certificate officer if he is satisfied that the demand is recoverable and that recovery by a suit is not barred by law, may sign a certificate, in the prescribed form, stating that the demand is due and shall include in the Certificate the fee if any paid under Section 5(2), and shall cause the Certificate to be filed in his office. The said Certificate under Section 7 requires service upon the certificate-debtor. Within 30 days from the service of such notice, the Certificate-debtor has a right to deny the liabilities in whole or in part, which fact is required to be determined by the Certificate Officer, by virtue of Section 10.

59. Thus, as is evident from the provisions of Part –II (Section 4 to Section 11), the Certificate Officer is required to record the satisfaction of the determined amount, for which Certificate is to be issued, which fact has to be after following due process i.e. issuing notice and hearing the parties. The Act prescribes the remedy of preferring an appeal/revision/review (Section 60, Section 62 and Section 63). In this connection, reference is made of **Ram Niwas Sharma –Vrs.- The Food and Consumer Protection Department through the Principal Secretary and Ors., reported in 2018(4) PLJR 515.**



60. In **Management Committee of Montfort Senior Secondary School Vs. Vijay Kumar and Others (2005) 7 SCC 472**, the Hon'ble Apex Court dealt with the ambit and scope of the Delhi School Education Act, 1973 vis-à-vis the provisions of the Arbitration and Conciliation Act, 1996. The issue arose as to whether the Tribunal for the Arbitration Act can be said to be a judicial authority or not. Clarifying it not to be, the Court reiterated that the plaintiff is *dominus litis* having dominion over his case. He is the person who has carriage and control of the action. In case of conflict of jurisdiction, the choice ought to lie with him to choose the forum best suited unless there be the rule of law excluding access to a forum of his choice; permitting recourse to a forum is opposed to public policy; or would be an abuse of process of law. The Court reiterated its earlier principle laid down in **Bank of India Vr. Lekhi Moni Das & Ors. (2000) 3 SCC 640** that as a general principle where two remedies are available under law, one of them shall not be taken as operating to be in derogation of the other.

61. In **M.D. Frozen Foods Exports Private Limited and Others Vrs. Hero Fincorp Limited (2017)16 SCC 741** the Hon'ble Apex Court held that proceedings both under the Arbitration Act and the SARFAESI Act could continue simultaneously.



62. In view of those as mentioned earlier, it also cannot be said that right stood foreclosed in the light of proceedings under the Recovery Act; petitioners had an equally, alternative and efficacious remedy of adjudicatory process under the Recovery Act; the petitioners waived of the right to invoke clause 16 and have the disputes referred to Arbitration; or have elected not to enforce their statutory rights under the provision of the Arbitration Act.

63. To contend that this Court in several proceedings under the Recovery Act had foreclosed rights of the parties to invoke Clause 16 would not be correct. The issue was not the appointment of an Arbitrator or rights of the parties under Clause 16 of the Agreement. The challenge was specific and confined only to the proceedings initiated under the Recovery Act. In such a backdrop while dismissing the petitioners' prayer, it stood observed that petitioners have an equally efficacious remedy of approaching the authorities seeking amicable resolution of the dispute, also through the process of Arbitration.

64. From the record, it is not shown as to how petitioners have approached the Court with unclean hands.

65. Equally, it is neither shown nor can it be postulated, of the Rice Millers failing to comply with the order dated 13th August



2018 passed by the Hon'ble Apex Court in **Arvind Tiwary** (supra).

66. Can it be said that the present Petitions stand filed with the object of defeating the action initiated under the Recovery Act or with the objective of delaying such proceedings? Well this Court, without any basis, cannot fathom such a situation more so in the light of the absence of any specific particulars thereof. How the present proceedings are an abuse of the process of law remains unexplained.

67. If the certificate proceedings, which are summary in nature, are allowed to be paralyzed for more than 5-6 years, then it is a reflection on the adjudicatory authority and the Corporation, failing to take sufficient measures ensuring early disposal of such proceedings. In any case, this Court in **Rohit Rice Mills** (supra) and **Sadhna Kumari** (supra) have succinctly dealt with the issue.

68. Proceeding further, the Corporation wants to read Clause 16 into two parts- (i) parties agreed to settle the issues by way of mutual discussion, (ii) only failure thereof could the dispute be referred to the Arbitrator.

69. Such a construction on any principle of interpretation is unsustainable.



70. Further, the agreement does not state as to who is to approach whom for settlement by way of mutual discussions. The fact that the Corporation initiated proceedings under the Recovery Act, by invoking Clause 15, is only indicative of its intent and desire of not settling the matter by way of mutual discussion, with the only option of the Rice Millers taking recourse to the adjudicatory process through Arbitration. The agreement does not provide, as is sought to be argued to be obligatory on the part of the petitioners first to approach the functionaries (including Managing Director) of the Corporation, then only enabling them to seek enforcement of their contractual and statutory rights and remedies. In fact, on the asking of the Corporation, this Court had dismissed the appeals in **Arvind Kumar** (supra) observing that it was open to the petitioners to take recourse to arbitral proceedings by invoking Clause 16. Not only that, in subsequent similar petitions, this Court in the case of **Sadhna Kumari** (supra) allowed the applications and which order stood affirmed by Hon'ble the Apex Court in the case of **Sadhna Kumari** (supra).

71. Sri Anjani Kumar, learned Senior Advocate also pointed out that in most cases, this Court had observed that it would be open for the parties to represent and approach the Corporation



seeking reconciliation of the matter. As such parties must resort to the said directions and in any event because of the order dated 16.6.2020 passed by this Court since the parties have expressed their disinclination in resorting to such an exercise, parties cannot seek the appointment of an arbitrator.

72. This Court unsuccessfully tried to have the matter reconciled without adopting any lengthy adjudicatory process in terms of order dated 16.06.2020 passed in the present petitions which reads as under:

“9. 16.06.2020 Sri Anjani Kumar, learned Senior Advocate appearing for the Bihar State Food and Civil Supply Corporation has placed on record a chart indicating the immovable properties and the bank guarantee(s) furnished by each one of Parties/Applicants/Petitioners and the deficiency in meeting the amounts in terms of the agreement/alleged defalcated amount. Petitioner(s) seriously dispute correctness of the particulars furnished therein. Without prejudice to the respective rights and contentions of the parties, this Court had impressed upon each one of the petitioners to have the matter amicably resolved by at least sitting with Sri Anjani Kumar, learned Senior Advocate appearing for the Corporation, which suggestion is not acceptable to any one of the petitioners, on the ground of conflict of interest.

This Court does not see any logic or reason in advancing such a plea, for the endeavour was only to put



an end to the entire civil litigation, be it the certificate proceedings or the arbitral proceedings at the earliest and the learned Senior Counsel is a man of standing, apart from being extremely fair. The whole idea is to have the accounts and the amount reconciled and the matter resolved without taking recourse to lengthy adjudicatory process. Well, it is for the petitioner(s) to choose such a course and this Court would not impress upon them any further. Learned counsel for the petitioner(s) state that if the Arbitrator (s) were to be appointed, their clients would be ready and willing to pay the entire fee of the Arbitrator (s), as also, incur all the expenses of arbitral proceedings and that such proceedings shall not be allowed to be lapsed only on such a count. Also, before the commencement of the arbitral proceedings, petitioner(s) shall abide by all the orders passed by Hon'ble the Supreme Court.

Statement taken on record.

Post on 22nd June, 2020.”

73. The principles culled out in **SBP & Co** (supra) and **National Insurance Co. Ltd** (supra) stood reiterated by the Hon'ble Apex Court in **Booz Allen & Hamilton Inc. Vrs. SBI Home Finance Ltd. (2011) 5 SCC 532**, wherein also parameters of referring the disputes, to the arbitral Tribunal were categorized. One of the two issues was as to whether a suit for sale, foreclosure or redemption of a mortgaged property, should only be tried by a



public forum, and not by an Arbitral Tribunal in terms of the agreement executed between the parties or not. In the given facts, the Court held that such suit necessarily to be tried by the civil Court to more efficacious and conclusive than the Arbitral Tribunal. But however, it stood clarified that generally and traditionally all disputes relating to rights *in personam* are amenable to Arbitration.

74. The validity of the arbitration agreement; existence of the dispute; continuous litigation from the year 2014 onwards; and there being no possibility of amicable resolution of the disputes, this Court, having given its thoughtful considerations deem it appropriate, just and fair to appoint arbitrators in all these matters. All of these matters were heard together on different dates and judgment reserved same day, vide separate orders on each file. As such by a common judgement, these petitions are being disposed of with the arbitrators appointed as under: -

Sl. No.	Request Case No.	Name of the parties	Name of the learned Arbitrator(s)
1	146 of 2019	Sanjay Kumar v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
2.	147 of 2019	Ishwar Chand Prasad v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
3.	148 of 2019	Chandra Mohan Prasad v. The Managing Director, Bihar State	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of



		Food And Civil Supply Corporation Limited	India.
4.	149 of 2019	Ajay Kumar @ Ajay Kumar Jaiswal v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
5.	150 of 2019	Shyam Kumar Jaiswal v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
6.	151 of 2019	Yamuna Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
7.	152 of 2019	Vijay Kumar v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
8.	153 of 2019	Sagir Ansari v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
9.	154 of 2019	Madan Prasad Arya @ P. Madan Prasad v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
10.	155 of 2019	Nand Kishore Prasad v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Aftab Alam Former Judge, Supreme Court of India.
11.	156 of 2019	Ajay Kumar Gupta v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
12.	157 of 2019	Lal Babu Prasad v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
13.	158 of 2019	Bipin Kumar Singh @ Bipin Kumar v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
14.	159 of 2019	Om Prakash Gupta v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
15.	109 of 2019	M/s Arti Mini Rice Mill v. The Bihar State Food And Civil	Hon'ble Mr. Justice Chandramauli Kumar Prasad,



		Supply Corporation Limited	Former Judge, Supreme Court of India.
16.	110 of 2019	M/S G. Aditya Rice Mill v. The District Manager, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
17.	113 of 2019	Anand Bhushan v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
18.	115 of 2019	Manoj Kumar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
19.	117 of 2019	Raju Kumar Jaiswal v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
20.	118 of 2019	Om Prakash v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Chandramauli Kumar Prasad, Former Judge, Supreme Court of India.
21.	119 of 2019	M/s Gulab Rice Mill v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Judge, Supreme Court of India
22.	123 of 2019	Om Prakash Gupta v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
23.	124 of 2019	Chandan Prasad v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
24.	128 of 2019	Chandan Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
25.	129 of 2019	Sharda Prasad Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Judge, Supreme Court of India
26.	130 of 2019	Amindar Kumar Singh @ Amindar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
27.	131 of 2019	Shree Prakash Sharma v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
28.	132 of 2019	Jay Prakash Sah v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India



			India
29.	133 of 2019	Sanjay Kumar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
30.	134 of 2019	Mukesh Kumar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice Shiva Kirti Singh, Former Judge, Supreme Court of India
31.	135 of 2019	Rakesh Ranjan v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
32.	136 of 2019	Subodh Kumar v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
33.	137 of 2019	Manoj Kumar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
34.	138 of 2019	Santosh Kumar Ray Alias Santoh Kr. Rai v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
35.	139 of 2019	Rajiv Kumar Singh @ Rajeev Kumar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
36.	140 of 2019	Ashok Kumar Singh v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
37.	141 of 2019	M/S Jai Maa Mundeshwari Minni Rice Mill v. The District Manager, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
38.	142 of 2019	Lal Babu Mishra v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
39.	125 of 2019	Rita Jayswal v. The Managing Director, Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India
40.	126 of 2019	Prop. Sahindra Kumar Yadav v. The Bihar State Food And Civil Supply Corporation Limited	Hon'ble Mr. Justice S.J. Mukhopadhaya, Former Judge, Supreme Court of India



75. The learned Arbitrator(s) shall hold the proceedings in the State of Bihar unless parties otherwise agree. Arbitrator(s) fee would be as per Fourth Schedule of the Arbitration Act and paid by the petitioner(s) as per their statement, which of course, shall be subject to further direction(s) issued in the final award. Insofar as furnishing of bank guarantee is concerned, the issue is left open to be examined by the learned Arbitrator(s) who shall ensure compliance of the orders passed by the Hon'ble Supreme Court as also interim order dated 16.06.2020 passed in these petition(s).

76. All disputes arising out of Agreement(s) entered between the parties is referred to the learned Arbitrator for arbitration.

77. On the name of the learned Arbitrator(s), there can be no objection by either of the learned counsel for the parties.

78. Parties undertake to appear before the learned Arbitrator(s) within one week through the mode of Video Conferencing and as permissible with the lockdown period of current Pandemic Covid-19. Parties also undertake to fully cooperate and agree to request the learned Arbitrator(s) to complete the proceedings at the earliest, which request, this Court, trust would be favorably considered.



79. Learned Registrar General shall ensure that a copy of this order is made available to the learned Arbitrator(s) positively through an electronic mode on or before 8th of July 2020.

80. Parties shall file their statement of claims before the learned Arbitrator(s) on such date of hearing, which they may fix, as per mutual convenience.

81. In fact, even during the lockdown period, subject to the convenience, arbitral proceeding can commence and conclude using video conferencing/other electronic mode.

82. Learned counsel for the parties also undertake to apprise the learned Arbitrator(s) of the passing of the order. This, they shall positively do so within next two working days.

83. The Request Petitions stand disposed of in the above terms.

84. No order as to costs.

sujit/-

(Sanjay Karol, CJ)

AFR/NAFR	
CAV DATE	22.06.2020
Uploading Date	03.07.2020
Transmission Date	

