

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.965 of 2018

Suresh Prasad Son of Late Rameshwar Sao, resident of Village- Changwa,
Under Gram Panchayat-Dewangardh, Sub-Division- Nawada Sadar, Police
Station and Block- Kaua Kole, District- Nawada.

... .. Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Nawada.
3. The Deputy Development Commissioner, Nawada.
4. The Director, D.R.D.A. Nawada.
5. The Block Development Officer, Nawada Sadar, District- Nawada.
6. The Block Supply Officer, Nawada Sadar, District- Nawada.
7. The Secretary, Justice Uday Sinha Judicial Enquiry Commission 12-13 Back
Harding Road, Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Roy
For the Respondent/s : Mr.Vinay Kirti Singh-Ga2

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

6 29-06-2021 The petitioner in the present writ application has questioned the correctness of the order dated 14.09.2017 passed in Case No. Nawada/39/C.W.J.C./17 and the order dated 10.10.2017 passed in Case No. Nawada/23/C.W.J.C./17 by the learned Chairman Justice Uday Sinha, of Judicial Enquiry Commission, constituted under the judgment and order of this Court dated 21.09.2015 passed in C.W.J.C. No. 5638 of 2011 (*Raiful Azam and Others vs. The State of Bihar and Others*) and other analogous matters.

2. It is the petitioner's specific case that the impugned



orders passed by the learned Chairman of the Commission is contrary to the observations made by this Court in paragraph 89 in the case of ***Raiful Azam and Others*** (supra).

3. By the impugned order passed in Case No. Nawada/39/C.W.J.C./17, learned Chairman, upon noticing the fact that the petitioner, who was a P.D.S. Dealer, had not deposited 50% of the demand and further, there was no appearance on his side despite service of summons, concluded that his case did not merit any consideration by the Commission. The Enquiry Commission accordingly observed that the certificate proceeding should continue and steps should be taken to realize the sum from the dealer.

4. Re: Case No. Nawada/23/C.W.J.C./17, learned Chairman noted the fact that the petitioner did not deposit any part of the demand nor did he filed any representation.

5. Learned counsel appearing on behalf of the petitioner has heavily relied on paragraph 89 of this Court's decision in the case of ***Raiful Azam and Others*** (supra) to submit that it was not permissible for the Enquiry Commission to have gone beyond the terms of reference as mentioned in the said paragraph.

6. The said submission, in Court's opinion, is totally



misplaced in the light of the opening sentence of paragraph 89, which states that the Enquiry Commission for the purpose of enquiry shall 'also' go into the aspects as mentioned therein. Paragraphs 88 and 89 of the said judgment and order in the case of ***Raiful Azam and Others*** (supra) read thus : -

“88. The aforesaid Enquiry Commission shall look into all the various facets of the supply and distribution of the rice, in question, under S.G.R.Y. through the P.D.S. dealers including the writ petitioners with a view to primarily fix the responsibility on the P.D.S. dealers vis-à-vis government officials in the matter of recovery of the price of rice which could not be distributed under the S.G.R.Y. Scheme and remained with the P.D.S. dealers, quantified by the C.A.G. to the tune of Rs. 321 crore and by the Government of Bihar to the tune of Rs. 215 crore.

89. The Enquiry Commission for this purpose shall 'also' go into the following aspects:-

(i) The quantum of actual loss sustained to the government, in S.G.R.Y.

(ii) The terms and conditions of allotment of rice to P.D.S. dealers under S.G.R.Y. for its distribution to the beneficiaries.

(iii) The manner of allotment of rice to the PDS dealers.



(iv) The payment of transportation/handling/storage charges to PDS dealers.

(v) Price of rice on which recovery has to be made.

(vi) Whether 5994 PDS dealers alone will be responsible for recovery of the aforesaid loss or even the officials entrusted with the task of regulating and monitoring the SGRY scheme including 48 Divisional Commissioners, 204 Collectors, 202 Deputy Development Commissioners, 412 Sub Divisional Officer apart from 2640 Block Development Officers as well as concerned person of Zila Parishad/Panchayat Samiti/Gram Panchayat including Panchayat Secretary and Mukhia.

(vii) The Enquiry Commission in fact will also have to fix the quantum of amount of recovery to be made from the PDS dealers and/or officials so that not only 5994 PDS dealers being subjected to at least 689 criminal cases and 4985 certificate proceedings alone are not made liable in isolation unless the Enquiry Commission comes to a conclusion that the Government officials had discharged their duty religiously in the matter of monitoring and supervising SGRY scheme all over the State.

(viii) The Enquiry Commission may also go into any other related aspect for ensuring recovery of the total loss of revenue



caused to the state exchequer in the execution and implementation of the S.G.R.Y. scheme all over Bihar in the period 2002 to 2006.

(ix) The Enquiry Commission shall also be free to make any interim as also final recommendation for recovery of entire loss of government revenue under S.G.R.Y. scheme.”

7. At this stage, it will be beneficial to note the observations made by this Court in paragraph 104 in the case of ***Raiful Azam and Others*** (supra), which reads thus : -

“104. In order to enable the P.D.S. dealers including the petitioners to get stay of the certificate proceeding, the amount of deposit of 50% of the certificate amount can be paid in three equal monthly installments.”

8. The petitioner had admittedly not deposited any amount as has been noted in the orders by the learned Chairman of the Commission. The impugned orders thus do not suffer from any legal infirmity requiring this Court’s interference.

9. This writ application has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Pawan/-

U			
---	--	--	--



