

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13494 of 2021

=====

Hussepur Primary Agriculture Co-operative Credit Society through its
Chairman Dharmendra Kumar Singh aged about 38 years (Male), S/o Sri
Awadesh Singh R/o Hussepur, P.S. Amnaur, District Saran.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply
Department, Govt. of Bihar at Patna.
2. The Managing Director, the Bihar State Food and Civil Supply Corporation
Ltd. Bihar at Patna.
3. The Registrar, Co-operative Department, Patna.
4. The District Magistrate, Saran.
5. The District Manager, Bihar State Food and Civil Supply Corporation Ltd,
Saran.
6. Additional District Magistrate, Saran.
7. District Supply Officer, Saran.
8. The District Co-operative Officer, Saran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Shashi Kant Kumar, Advocate
For the Respondent-State: Mr.Arvind Ujjwal, SC-4
For the BSFC : Mr. Shailendra Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 25-07-2022

Heard learned counsel for the petitioner and
learned counsel for the State Food Corporation.

2. The petitioner has made following prayers in the



present application:

“(i) To issue a writ in the nature of Mandamus commanding and direction to the respondent no. 1 to 5 to make payment for Rice (CMR) of 326.97 Quintal (RS.8,39,650) supplied to the godown of BSFC, Saran as per letter dated 26.07.2018 as contained in Annexure-3.

(ii) To issue a writ in the nature of mandamus for a direction to the respondent no.5 to pay interest for the delayed payment made to the farmers from CC Account of PACS (Primary Agriculture Co-operative Credit Society).

(iii) To pass any order/orders as deem fit and proper in the facts and circumstances of the present case.”

3. It is submitted by the learned counsel for the petitioner that the petitioner- Hussepur Primary Agriculture Co-operative Credit Society (PACS) had procured 891 quintal paddy from the farmers for which payment had already been made by it. After milling the paddy it had deposited 59.70 metric tonne Custom Milled Rice (CMR) to the Bihar State Food and Civil Supply Corporation (BSFC) godown situated at Bazar Samiti, Saran. The Assistant Manager-cum-Godown Incharge, BSFC, Saran submitted a receipt in respect of CMR



received from the petitioner on 06.08.2018. It is contended that till date the petitioner has not received the payment for 326.97 quintal CMR handed over to the BSFC, Saran. He contended that the total payment of the petitioner which is due against the respondent-BSFC is Rs.8,39,650/-. His further contention is that due to lapses and inactivity of the respondents, the petitioner is being illegally harassed. A complaint in this regard was made to the respondent no.4 for the alleged non-payment of CMR in lieu of paddy, who requested the concerned authority of the BSFC to make payment. In spite of that till date, the petitioner has not received the payment from the State Food Corporation, Saran.

4. Respondent nos. 2 and 5 have filed their counter affidavit in the matter wherein it is stated that in the instant writ application, the petitioner has neither annexed the agreement with the rice miller nor the supporting documents of receipt of purchase of paddy, RT Note of Paddy, RT Note of CMR and acceptance receipt issued by the concerned official of the BSFC after acceptance of CMR. It is further contended that after physical verification of the concerned godown, a shortage of 3540.47 quintal of CMR amounting to Rs.1,145,65,654/- was found and an FIR in this regard has been lodged. In the counter affidavit, it is further stated that the concerned AGM had



submitted an application before the District Magistrate, BSFC, Chapra on 22.09.2018 informing him that several PACS have not deposited CMR and the Data Entry Operator had fraudulently issued receipt of CMR against PACS, but the quantity of CMR was not available in the godown. The name of the petitioner society was mentioned at serial no.4 in the list of PACS which did not deposit the CMR in the godown.

5. Learned counsel appearing for the respondent-BSFC submitted that since the claim of the petitioner is disputed and an FIR has already been lodged by the respondents for the alleged criminal breach of trust and cheating, the prayers made by the petitioner in the present application are fit to be rejected. He further contended that a certificate case in this regard is also pending against the petitioner.

6. In reply, learned counsel for the petitioner submitted that the statements made in the counter affidavit are misleading. The petitioner-Society had supplied 326.97 quintal CMR to the BSFC, Bazar Samiti Godown on 13.04.2018 and it is wrong to allege that the petitioner did not deliver the CMR in question. He contended that the dispute raised by the BSFC officials is an afterthought to delay the genuine claim of the petitioner.



7. Be that as it may, regard being had to the disputed nature of claim wherein an FIR has also been instituted and the dispute of fact is of the nature which would require elaborate evidence to be adduced to determine it, we are not inclined to entertain this application in extra ordinary writ jurisdiction.

8. Accordingly, the application is dismissed with liberty to the petitioner to agitate his grievance by filing a suit before a court of competent jurisdiction.

(Ashwani Kumar Singh, J)

(Shailendra Singh, J)

kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.07.2022
Transmission Date	NA

