

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.698 of 2016

In
Civil Writ Jurisdiction Case No.3837 of 2016

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1. Bihar State Food And Civil Supplies Corporation Ltd. Patna through its Managing Director.
 2. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Co-operative Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Additional District Magistrate, (Supply), Patna, District - Patna.
4. The Sub - Divisional Officer, Patna District - Patna.
5. The Block Development Officer, Dhanarua, District - Patna.
6. The Managing Director, Patliputra Central Co-operative Bank Ltd., Patna, District - Patna.
7. Paddy Purchase Centre, Dhanarua, Patna through the District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Patna.
8. Dhanarua Vyapar Mandal Sahoyg Samiti Ltd. Dhanarua, District - Patna through its Chairman Anup Kumar.
9. Anup Kumar, Son of Sri Jagdish Prasad, Resident of Village - Chhitrauli, P.O - Pavera, P.S. - Dhanarua, District - Patna, Chairman, Dhanarua Vypar Mandal Sahyog Samiti Ltd. Dhanarua, District - Patna.

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Anjani Kumar, Senior Advocate Mr. Nirmal Kumar, Advocate Mr. Shailendra Kumar Singh, Advocate
For Res. Nos.7 and 8	:	Mr. Rajendra Narain, Senior Advocate Ms. Anju Narain, Advocate Mr. Umesh Kumar Roy, Advocate
For the Bank	:	Mr. Anant Kumar Sinha, Advocate Mr. Bindhyachal Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-04-2022



Heard Mr. Anjani Kumar, learned Senior Advocate for the appellants and Mr. Rajendra Narain, learned Senior Advocate assisted by Mr. Shailendra Kumar Singh for the respondents.

2. The order under challenge is dated 09.03.2016, passed in CWJC No.3837 of 2016 wherein it has been directed by the learned Single Judge that the BSFC ought to ensure payment of 3254.60 quintals of paddy supplied by the respondent/co-operative society to the BSFC within a maximum period of four weeks from the date of receipt/production of a copy of the order, failing which the BSFC would be required to pay the price with interest @ 11% per annum payable from the date of supply, i.e., from April, 2015 till the payments are made by the Corporation.

3. It is the case of the respondents that they had supplied 13,469.80 quintals of paddy to the appellant/ Corporation and had initially received a payment only with respect to 8342 quintals of paddy. No payment was made



with respect to the balance 5127.80 quintals of paddy but later, on persuasion of the respondent, some further payments were made but the respondent was forced to come before the High Court because no payment was being made for 3254.60 quintals of paddy for a long time.

4. In support of the contention of the respondents, purchase-cum-payment vouchers were placed for the inspection of the learned Single Judge to demonstrate that paddy was purchased from the farmers, for which payments were made through the Bank by the co-operative society after exercising its option of Over Draft and thereafter the money was required to be remitted in the account of the co-operative society by the Corporation, leaving something extra so as to be utilized as commission for the services of the co-operative society.

5. Accepting such document to be the definite proof of supply of paddy/CMR to the Corporation, the learned Single Judge appears to have directed for payment of the aforesaid quantity of paddy, failing which the



Corporation would be under an obligation to pay the price of such paddy along with 11% interest thereupon.

6. We have noticed that this order was subject to challenge in the present LPA which was tagged with batch of LPAs, the lead case being LPA No.881 of 2016. Later, on the asking of the appellants of this case, the present appeal was de-tagged and, therefore, the same is being contested today.

7. In the batch of LPAs, about which reference has been made above, the prayers made in most of the writ petitions in which order was passed which was under challenge, there was a direction to the Corporation to accept the paddy procured by the co-operative societies/Vyapar Mandals after paying for the same to the farmers as the same was not being accepted on the sole ground of such purchase/supply being made beyond the cut off period of the currency of the scheme, which perhaps had expired by the time attempts were being



made by the co-operative societies to supply the paddy to the Corporation.

8. It was contended by most of the co-operative societies before the LPA Bench that the purchases were made before 31.03.2015; the balance stock of paddy/CMR was supported by the enforcement certificates issued by the Enforcement Officers and that those co-operative societies had also approached the Court on or before the cut off date.

9. The Division Bench, in that instance, found that the enforcement certificates were not a conclusive proof of the purchases of paddy by the society from the farmers.

10. The entire scheme had been formulated for the benefit of farmers and not for traders and, therefore, in the absence of any evidence of the farmers having been paid through RTGS/NEFT immediately after the procurement of paddy from them, there could not have been any direction to the Corporation to make any



remittance in the account of the co-operative societies. The paddy/CMR also had to be supplied to the Corporation for seeking any remittance of money in the bank account of such co-operative societies. The Division Bench, after explaining the methodology to be followed in the scheme in question, found that the Central Government had made an arrangement for de-centralized purchase of food grains/paddy for which the BSFC was made the nodal agency for the State of Bihar for purchasing paddy from various co-operative societies known as PACS, Vyapar Mandals and purchase centres of the BSFC. The BSFC could have entered into independent negotiation with the rice millers for converting the paddy so supplied and procured into Custom Milled Rice (CMR) for which the millers also were to be paid by the Corporation.

11. The whole purpose of the scheme, therefore, was to ensure benefit to the farmers and also to the rice millers who had a captive work of converting such paddy/CMR to be supplied to the BSFC.



12. One of the main conditions in the scheme was that in case of any purchase from the farmers directly by the co-operative society or the purchase centres of BSFC, those farmers had to be paid through RTGS/NEFT or account payee cheques immediately. Only thereafter, such co-operative societies could have expected payment from the Corporation on the basis of proportionate CMR of the purchased paddy on receipt of certifications and vouchers. In those cases, the Division Bench found that the evidence was lacking with respect to the farmers having been paid for the paddy procured from them and in some cases even the supply to the Corporation was doubted.

13. Balancing the interest of all the parties, the Division Bench in that instance devised a way by directing for a Committee to be constituted, comprising the District Magistrate of the concerned district, the Enforcement Officer of the concerned block within whose jurisdiction the PACS was situated and one Senior Officer from the BSFC, to be nominated by its Managing Director. The Committee



so constituted was to have the assistance of the concerned Bank Managers and Officers of the Co-operative Banks in finding out whether purchases were made by the co-operative societies/PACS after making payment to the farmers. The Committee was directed to complete the entire exercise of verification within a stipulated period and then only the BSFC could have taken a decision with respect to the aforesaid report for payment to the co-operative societies through which the paddy was procured. The Committee was also asked to give reasons for rejection of the claims of the co-operative societies and in case of any dispute or objection to such rejection of the claim, the co-operative societies were given the liberty to raise their grievances at an appropriate forum which would be decide in accordance with law.

14. The aforesaid arrangement made by the Division Bench was also put to challenge before the Supreme Court vide Special Leave Petition (Civil) Diary No.17509/2019.



15. The Supreme Court took a larger view of the matter and after noting that the controversy was largely limited to the supply of paddy by the PACS beyond the cut off date and its non-acceptance by the Corporation for that reason, but, found that it was required to be decided whether the paddy procured during the agricultural season of 2014-15 could be accepted by the government agency/BSFC.

16. For resolving the dispute, the Central Government as well as the State Government were directed to come out with clear suggestions and the order of the Division Bench of this Court was ratified and a direction was issued for such Committee, referred to above, to be constituted within one week of the passing of the order, which was, in turn, directed to complete the exercise within three weeks from its constitution and to submit an appropriate report before the Supreme Court.

17. What is important to note is that on the submission made on behalf of one of the respondents to



extend the deadline from 31.03.2015 to 15.04.2015, which request was vehemently contested by the State, the Apex Court, considering the ends of justice, extended the deadline to 15.04.2015. The Committee was, therefore, directed to consider all matters keeping the deadline as 15.04.2015.

18. The final order is but yet not come.

19. Mr. Rajendra Narain, learned Senior Advocate for the respondent has submitted that with the extension of deadline for the acceptance of the paddy and in view of categorical assertion of the respondent herein that all the farmers have been paid, which assertion has not been denied by the appellants, there is no justification for interfering with the order of the learned Single Judge.

20. Even if the factum of payment to the farmers is found to be correct, what is still to be found out is whether the corresponding paddy was furnished to the Corporation for it to be used for the purposes for which the scheme was envisaged.



21. Even otherwise, we are not agreeable to the proposition that such issues, where there are divergent strands of facts put forth by the parties, could have been decided in a petition under Article 226 of the Constitution. We say so for the reason that except for bald statements on behalf of the parties, some of which are supported by affidavits, there was no material before the learned Single Judge to have taken a conclusive decision accepting the contention of one of the parties. The end result, therefore, belies the accepted canons of deciding such issues in a jurisdiction like this.

22. We take exception to the order also for the reason that similar such orders, as noted above, were put to challenge before the Division Bench of this Court which thought it expedient to have the matter enquired by a specially constituted Committee and that decision of the Division Bench has also found approval by the Supreme Court wherein the Committee so constituted has been directed to take up such matters at the earliest.



23. While saying so, the Supreme Court has even extended the deadline for acceptance of paddy.

24. We are thus of the considered view that the case of the respondent be also placed before such Committee, which shall examine all aspects of the matter and shall submit a report. In case, it is found that the respondent had supplied the paddy within the deadline so fixed by the Supreme Court and for which procurement, the farmers had been adequately compensated/paid, necessary orders shall be passed, redressing the grievances of the respondent. In case the respondent is aggrieved by any decision of the Committee, it would be open for the respondent to approach the Hon'ble Supreme Court in those batch of SLPs for ventilating their grievance.

25. With the aforesaid observation, the order passed by the learned Single Judge is set aside and this appeal stands disposed of.



26. It is expected that the Committee shall not unduly delay in coming to a final conclusion about the correctness of the claim of the respondent.

(Ashutosh Kumar, J.)

(Anjani Kumar Sharan, J.)

Sanjay/-

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