

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12503 of 2016

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Bihar State Warehousing Corporation

... .. Petitioner/s

Versus

1. The Chairman Cum Managing Director, Food Corporation Of India and Ors
2. The General Manager and Food Corporation of India, 4th Floor, Arunachal Bhawan, Exhibition Road, Pa
3. The Area Manager, Food Corporation of India, District Office Nalanda at Biharsharif.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mithilesh Kumar Rai, Advocate
For the Respondent/s	:	Mr. Prabhakar Tekriwal, Advocate
For the FCI	:	Mr. Saket Tiwari, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 14-02-2023 Heard learned counsel for the petitioner and learned counsel appearing for the Food Corporation of India, Mr. Saket Tiwari.

The petitioner, Bihar State Warehousing Corporation, is a Government undertaking and is aggrieved by the unilateral decision taken by the Food Corporation of India in withholding an amount of Rs. 12,46,26,423/- (Annexure-8 to the writ application) on the ground that the grains stored in the warehouse of the petitioner at Biharsharif was misappropriated/ swindled.

Learned counsel for the petitioner submits that the amount withheld is with respect to handling and storage charges



of the grains which was kept in the godown of the petitioner at Biharsharif, Nalanda. It is also submitted, no doubt, the grain was misappropriated by the employee of the petitioner, as would be evident from Annexure 4A to the writ application, but then whether the loss caused to the F.C.I. can unilaterally be decided at the end of F.C.I.

Learned counsel next submits that, in the event, if an adjudication would have taken place before arriving at a conclusion for withholding the amount aforesaid then, perhaps, the petitioner would not have raised any grievance but in absence of any adjudication a unilateral decision has been taken that grieves the petitioner as one Government entity is punishing the other Government entity without holding any inquiry and assessing the loss and even without giving any opportunity to the petitioner to put its cause.

The learned counsel for the Food Corporation of India submits that by order dated 22.04.2019 a specific direction was issued by this Court for filing a counter affidavit and the order recorded that - Food Corporation of India will disclose, as to whether, prior to issuance of Annexure 8 whereunder a loss of Rs. 12,46,26,423/- has been assessed against the petitioner, any exercise was done to find out the actual loss. It will also disclose



that whether in nature of dispute involved in the present case, the agreement between the parties provided for any dispute redressal mechanism.

Learned counsel submits that in terms of the order dated 22.04.2019 a counter affidavit has been filed and draws the attention of the Court to paragraph 23 of the counter affidavit which is recorded verbatim-

The said letter specifically mentioned the method for settlement of disputes in the following manner.

“In the event of any dispute or difference or claim arising out of or in connection with or under this agreement, the same shall be decided by the depositors and Managing Director of the corporation by mutual discussions.

In case of non-agreement as above the matter shall be referred to arbitration or shall be subject to settlement within the Court of Patna town.”

The learned counsel thus submits that the said letter is dated 15-04-2010 contained in memo no. 398 issued by the Managing Director, BSWC, wherein the method of dispute resolving/ settlement of dispute is specifically mentioned.

It is thus submitted that since the petitioner is disputing the claim of the Food Corporation of India, as such,



Food Corporation of India is not averse for getting the matter adjudicated through an arbitrator.

It has been mutually submitted by both the learned counsel for the parties that Managing Direction of B.S.W.C. (Bihar State Warehousing Corporation) and the General Manager Region, Food Corporation of India will sit together and, in the event, if consensus is arrived then an arbitrator will be appointed and in the event, if no consensus is arrived then steps would be taken for getting an arbitrator appointed in accordance with law.

In view of the submission made by the learned counsel for the parties, the writ application is disposed of in accordance with the submission recorded hereinabove.

The amount withheld by F.C.I. shall be subject to the decision arrived at in the arbitration proceeding.

(Satyavrat Verma, J)

Harsh/Gaurav-

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