

12-09-2023
ct no. 13
sl. no. 10
pk

F. M. A. 326 of 2022
IA No: CAN 1 of 2023

**Raiganj Co-operative Agro-Product Trading Service
Society Ltd. and another
Versus
State of West Bengal and others**

Mr. Ajit Kumar Mishra,
Mr. Amritam Mondal,
Mr. Abhishek Dey,
Mr. Suprovat Banerjee

... for the appellants.

1. Despite service of notice, respondents are not represented.
2. The appeal is directed against judgement and order dated 15.12.2021 passed in WPA 14866 of 2021. The appellant is a co-operative society engaged in the business of procurement of vegetable and food grains. They, in turn, supply their products to the State for onward distribution to the public at large through the Public Distribution System (PDS).
3. The appellants were successful in a tender process floated by the State to procure 3000 metric tonnes of potatoes from the cultivators. They claimed to have supplied it to the State. They were paid the value of the potatoes procured but not the commission and the shortfall put in by the State. Reliance is placed by counsel for the appellants on a certificate

issued by the State in the year 2010 that the supply was satisfactory.

4. The respondents sought a confirmation of the balance due from the State in the year 2010 itself and followed up with reminder in the year 2011. In the year 2012 the concerned authority forwarded the petitioner's request for balance confirmation to the State to which no response was received.
5. The writ petitioner remained silent and did not take any step against the State, until the year 2020. For the first time in the year 2020, for reasons that are completely unexplained and baffling, the local authorities once again forwarded the request of the petitioner for balance confirmation to the respondent authorities.
6. This Court is of the view that the said letter dated 08.12.2020 must have been procured from the Assistant Registrar, Co-operative Society, Uttar Dinajpur Range by the petitioner, contrary to law and procedure.
7. Be that as it may, there is no confirmation of any claim of the petitioner by the Assistant Registrar. Even assuming for the sake of argument that the same constitutes any

confirmation in the eye of law, acknowledgement of any time-barred debt, in law has no value in law.

8. Learned counsel for the appellants would, however, rely upon a document produced for the first time by the State while the writ petition was being considered for admission by the learned Single Bench. The said document is report of a committee which indicated that the potatoes supplied by the petitioner in the year 2010 were not meant for human consumption.
9. Learned Counsel for the appellants would argue that he was neither given a copy of the said report nor was he given an opportunity to deal with the same.
10. This Court has carefully considered the arguments of the counsel for the appellants, records and the impugned order. The learned Single Judge has not placed reliance only on the report of the committee which held that the petitioner supplied below standard potatoes. The Single Bench found that the writ petitioner was guilty of trying to revive a time barred and/or dead claim. Even assuming for the sake of argument, the report of the committee was incorrect, the original claim of

the petitioner itself was hopelessly barred by limitation by well over seven years.

11. In the circumstances, the view taken by the Single Bench, that the petitioner's claim is not maintainable, calls for absolutely for no interference whatsoever.
12. The appeal and the writ petition are in gross abuse of process of law.
13. Had the respondents been represented, exemplary and penal costs would have been warranted.
14. However, the instant appeal is dismissed with costs assessed at Rs.7,500/- payable by the appellants to the High Court Legal Services Authority.
15. In view of dismissal of the appeal itself, all connected applications are also disposed of.
16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)

