IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8912 of 2022

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Sudhendra Kumar Singh, son of Shri Braj Kishor Singh, resident of Village-Sripurkavaia, P.S. and P.O.- Ghorasahan, District- East Champaran, Bihar-845303.

... ... Petitioner

Versus

1. Union of India.
2. Commissioner of Customs, Patna 5th Floor, Central Revenue Building, Bir Chand Patel Marg, Bailey Road, Patna- 1.
3. Sri N.K. Chaudhary, the then Assistant Commissioner Customs (P), Hqrs., Patna 5th Floor, Central Revenue Building, Bir Chand Patel Marg, Bailey Road, Patna- 1.

... ... Respondents

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Appearance :

For the Petitioner	:	Ms. Archana Meenakshee, Advocate
For the Respondents	:	Dr. K.N. Singh, Addl. S.G.
		Mr. Anshuman Singh, CGC
		Mr. Shivaditya Dhari Sinha, J.C. to ASG
		Mr. Prabhat Kumar Singh, J.C. to ASG

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 15-04-2024

This writ petition has been filed for a direction upon the respondents to grant and pay the reward amount to the petitioner in connection with Patna Customs Hqrs. Case No.06 of 2018-19 dated 16.05.2018.

2. It is the case of the petitioner that he acted as an informer for the seizure of foreign contraband goods in Patna Customs Hqrs. Case No.06 of 2018-19. On 15.05.2018, the petitioner gave an information to the Customs Department regarding foreign origin black peppers smuggled from Nepal to India. Acting upon the said information, the officers of Customs Department headed by the then Assistant Commissioner, Customs (P) Hqrs, Patna along with other officers of SSB and the officers of Harlakhi Police Station raided the house of one Batohi Mahto and Manoj Mahto on 16.05.2018 and seized Black Pepper, Cut Betel Nut and Gutkha, the total value of which is Rs.26,41,500/-. It is also the case of the petitioner that at the time of raid he was present and guided the Assistant Commissioner, Customs Department about the current position of the contraband goods.

3. It is also the case of the petitioner that his information makes him eligible for grant of appropriate reward as fixed by the Revenue Department, Government of India vide Circular dated 31.07.2015 as para 5.1.1 of the aforesaid circular provides that "*Informers and Government Servants will be eligible for reward upto 20% of the net sale proceeds of the contraband goods seized (except items listed in Para 5.2 below) and/or amount of duty/Service Tax evaded plus amount of fine and penalty levied/imposed and recovered*".

4. It is the contention of the petitioner that the seized goods which were deposited vide Customs Hqrs. Godown Entry no. GE 3/18-19(c) dated 30.05.2018 has been auctioned and a sale proceeds amounting to Rs.12,00,000/0- has been collected by the department and therefore, the petitioner is entitled for 20% reward of the sale proceeds of contraband goods. After lapse of reasonable period when the petitioner approached the then Assistant Commissioner, Customs, Patna for the purposes of receiving justified reward in lieu of the information given by him which resulted in seizure of foreign contraband goods, he was suggested to request the competent authority i.e. the Commissioner of Customs for redressal of his grievances. Thereafter, the petitioner moved before the respondent authorities to redressal of his grievances but all his efforts went in vain.

5. In this case, a counter affidavit has been filed by the respondents in which the respondents admitted that seizure was effected on the basis of specific information given by informer and genuineness of the informer is subject to the verification. It has also been stated in the counter affidavit that the case of the petitioner is under process of verification and subsequently, it shall be placed before the appropriate authority for a decision for sanction of reward and for that purpose, the meeting of the Reward Committee is scheduled to be held on 14.09.2022 in respect of various reward proposals including the case of the petitioner.

6. In the second supplementary counter affidavit, the respondents have stated that reward amount of Rs.25,000/- has been sanctioned to the informer of Patna Customs Hqrs. Case No.06 of 2018-19 on the basis of recommendation of the Reward Committee and the receipt of the said reward is available in a sealed envelope with the office.

7. The petitioner filed a rejoinder to the counter affidavit and supplementary counter affidavit filed by the respondents. In the rejoinder, it has been stated that as per the reward guidelines, the Commissioner of Customs, Patna was supposed to apply his own mind for sanctioning the reward amount as upto Rs.10 Lakhs has to be sanctioned by the jurisdictional head of the department i.e. the Commissioner of the Customs & Central Excise but he acted on the recommendation of the Reward Committee, which is illegal. Further, the Reward Committee did not go through the submissions of the then Assistant Commissioner, who specifically stated about the specific information given by the petitioner has resulted in the seizure. The respondents did not follow para 3.3 of the Circular dated 31.07.2015 which provides the criteria for grant of reward. It has also been stated that DRI-I form, written statement of the information in petitioner's own hand writing and the adjudication order of the present case have also not been followed by the respondents while quantifying the reward. The informer provided one person to accompany the team from Patna for confirming the house in which the raid was to be conducted. Even the petitioner gave the location of some of the consignments also which was shifted before reaching the raiding team. The petitioner submitted a representation dated 23.11.2022 to the Chief Commissioner, Customs (P) Headquarters, Patna against granting unjustified reward to him.

8. The respondents have filed second supplementary counter affidavit and have stated that the information was graded as *"of general nature"* and therefore, the Reward Committed has rightly sanctioned an award of Rs.25,000/- to the informer. However, in paragraph no.10 of the second supplementary counter affidavit, it has been stated that the informer provided specific information that huge quantity of foreign origin Black Pepper Smuggled from Nepal has been stored in the house of one Manoj Mahto. In paragraph no.11 it has been stated that as per para 11.1 of the Circular dated 31.07.2014 the informer cannot claim reward as a matter of right. The payment of reward is an ex-gratia based on best judgment of the authority competent to grant reward and taking into consideration the facts and circumstances of each case. It is also clarified that the Government is under no obligation to grant/sanction the maximum admissible reward upto 20% of the net sale proceeds of the seized/confiscated goods.

9. In this case, an interlocutory application has been filed by the petitioner and furnishing the details to prove how the information given by him was specific and under what circumstances the same was found from three different places and the petitioner also requested to call for the records of the case. In the said interlocutory application, a statement has been made that respondent no.2 vide his letter dated 26.08.2022 and 05.09.2022 informed the department regarding the actual picture.

10. In this case, the respondents have filed third supplementary counter affidavit and have reiterated the facts which have been stated earlier. In paragraph no.11, it has been stated that in light of the order dated 23.01.2024 of this Court and having extra ordinary situation in terms of the directions of this Court, the proposal was forwarded to the Chief Commissioner, Customs Preventive Zone, Patna for revisiting the reward amount. The Chief Commissioner, if deems fit, may forward the said proposal to the Board for onward submission to the Hon'ble Minster of Finance, who is the final authority to enhance the reward amount.

11. Learned counsel for the petitioner submits that the minutes of the meeting of Reward Committee dated 14.09.2022 produced by the respondents indicates that the petitioner is the informer in the present case and on the basis of the specific information passed on by the petitioner, raid was conducted and seizure of contraband goods were made, which are valued at Rs.26,41,500/- and the contraband goods have been auctioned and a sale proceeds amounting to Rs.12,00,000/- has been collected by the department. The seizure and the sale proceeds have been admitted by the Customs Department and therefore, the petitioner is entitled for 20% reward of the sale proceeds of contraband goods.

12. Learned counsel for the petitioner further submits that from the records produced by the department and the submission of the then Assistant Commissioner (P) Hqrs. made before this Court on 23.01.2024 during his personal appearance, it appears that due to assistance rendered by the petitioner at the spot, the department was able to recover the contraband goods from different places and the sale proceeds of the smuggled goods came to Rs.12,00,000/- and the Customs Department got this revenue only due to the effort initiated by the petitioner.

13. Learned counsel for the petitioner also submits that the Customs Department took four years in finalizing the reward in violation of the time line fixed by the department vide Circular dated 03.05.2006 and that too when the petitioner had to expose himself by coming before this Court. As per the reward guidelines, the Commissioner of Customs, Patna was supposed to apply his own mind for sanctioning the reward amount as the monetary limit upto Rs.10 Lakhs has to be sanctioned by the jurisdictional head of the department i.e. the Commissioner of the Customs & Central Excise but, the Commissioner of Customs, Patna has acted on the recommendation of the Reward Committee and illegally sanctioned the reward amount to the tune of Rs.25,000/- i.e. 2% of the sale proceeds against the claim of Rs.2,40,000/- i.e. 20% of the sale proceeds.

14. It has also been submitted that no doubt the grant of reward is purely an *ex-gratia* payment but the instant case is a glaring example of abuse of administrative discretion as discretion must be exercised with reference to rule of reason and justice and not according to personal whims, such exercise must not be arbitrary, vague and forceful. It also also been submitted that respondent no.1 has not disbursed the claimed amount till date even after the order dated 23.01.2024 passed by this Court.

15. It has also been argued that the informers are the back-bone of enforcement agency and such litigation will discourage the informers to come forward before the department which will cause loss to the Government exchequer in generating revenue and curbing smuggling activities.

16. I have considered the submissions of the parties and perused the materials on record.

17. The guidelines for grant of reward to informers and Government Servants have been formulated in Circular dated 31.07.2015 and para 5.1.1. provides that informers and Government servants will be eligible for reward upto 20% of the net sale proceeds of the contraband goods seized or amount of duty/service tax evaded plus amount of fine and penalty levied/imposed and recovered. As per the aforesaid Circular dated 31.07.2015 the reward to the informers upto Rs.10,00,000/- can be sanctioned by the jurisdictional head of department i.e. Commissioner of Customs & Central Excise/ ADG DRI / ADG / DGCEI, whereas, for a reward above Rs.10,00,000/- and upto Rs.25,00,000/-, the sanctioning authority is a Committee consisting of (i) jurisdictional Commissioner of Customs & Central Excise/ ADG DRI / ADG DGCEI (ii) One of jurisdictional Additional Commissioner/ Senior Most Joint Commissioner / Director of the Commisionerate DRI / DGCEI and (iii) an outside Additional/Joint Commissioner or Addition / Joint Director of DRI / DGCEI nominated by jurisdictional Commissioner/ADG.

18. In the present case, it is an admitted position that the decision for grant of reward to the informer/petitioner has been taken by a Reward Committee consisting of two Joint Commissioners and the Principal Commissioner, Customs (P) Commissionerate, Patna. In my opinion, the decision for granting reward to the informer/petitioner, who could have granted maximum reward of Rs.2,40,000/-, ought to have been taken by the Jurisdictional Commissioner and not by a Reward Committee. Therefore, the decision/order of the Reward Committee dated 14.09.2022, which has taken a decision to give a reward of 2% of the net sale proceeds to the informer/petitioner is held to be against the guidelines of the Department provided in the Circular dated 31.07.2015 and the same cannot be sustained.

19. In view of the above-stated reasons, the order/decision of the Reward Committee dated 14.09.2022 is set aside with a direction to the jurisdictional Commissioner to consider the case of the informer/petitioner for grant of reward to the petitioner in accordance with law after considering the case of the informer/petitioner more particularly the facts that it was the informer/petitioner who had accompanied the officials in the raid and got seizure effected and the informer/petitioner has also identified the place where the seized materials were shifted in the village. The jurisdictional Commissioner while deciding the issue must consider that discretion vested upon him to consider as to the quantum of reward is to be exercised legally and accordance with law. The decision of the jurisdictional Commissioner must be detailed and reasoned. The jurisdiction Commissioner shall take decision within two weeks from the date of receipt/production of a copy of this order.

20. With the aforesaid observations and directions, this writ petition is allowed.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.04.2024
Transmission Date	