

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1617 of 2019

In
Civil Writ Jurisdiction Case No.5715 of 2019

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Vijay Kumar Son of Sri Ram Singh, Resident of Village- Kusedhi, P.S.
Barbigha, District- Sheikhpura.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Department Food and Consumer, Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer, Bihar Patna.
3. The District Magistrate, Sheikhpura.
4. The Deputy Development Commissioner, Sheikhpura.
5. The Sub-Divisional Officer, Sheikhpura.
6. The Block Development Officer, Shekhopur Sarai, District- Sheikhpura.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vijay Kumar
For the Respondent/s	:	Mr. S. Raza Ahmad (AAG-5)
		Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-09-2024

The learned Single Judge rejected the writ petition following the dismissal in a similar case, wherein it was found that impugned order was only based on the amounts found recoverable by the Hon'ble Justice Uday Sinha (Retd.) Committee.

2. The petitioner, in the writ petition, has contended that he was a licensee under the Public Distribution



System running a shop under Gram Panchayat Kusedhi within Barbiga P.S., Sheikhpura District; since 1991. A “Total Rural Employment Scheme” was implemented by the State in which wages to the laborers were to be given in the form of food-grains. The petitioner admits that he was delivered the food-grains which had to be supplied on the basis of the permits issued by the Panchayat. It is claimed that while the scheme was in operation; before the food-grains delivered was supplied, the Central Government introduced the “National Rural Employment Guarantee Scheme”, which resulted in the earlier scheme being suspended. Despite repeated requests to the authorities, the manner of disposal of the remaining stock of rice was not clarified.

3. The petitioner approached this Court with a writ petition along with others in which, Annexure-3 judgment directed replies to be filed before concerned Sub-Divisional Officers, which were also directed to be considered. Again, the petitioner approached this Court with yet another writ petition numbered as C.W.J.C. No.22709 of 2011 which was disposed of by Annexure-6. The challenge is to Annexure-7 dated 07.02.2019.

4. In similar matters, this Court in L.P.A. No.1651



of 2019, ***Ram Rati Prasad v. State of Bihar***, by judgment dated 30.01.2024, considered similar claims against the recovery initiated on the basis of Hon'ble Justice Uday Sinha (Retd.) Committee constituted by this Court. For better understanding of the subject matter of the litigation and the history of the same, we extract paragraph 5 to 9 of the said decision hereunder:-

5. The litigation has a chequered career and we have to necessarily look at the same before adjudicating the claim of the appellant. The report of the Committee is produced in the writ petition as Annexure-D by way of a supplementary counter affidavit of Respondent Nos. 2 to 6. The report indicates that there were disputes raised regarding the undelivered rice given to the various PDS dealers and demands were made by the Government for realisation of the price of the residual rice which led to a flood of litigation before the High Court. Almost 141 writ applications involving more than 216 PDS dealers were filed challenging the separate demands made. Reference is also made to two writ petitions- CWJC No. 5638 of 2011 (Raiful Azam & Ors. v. State of Bihar & Ors.) and CWJC No. 19529 of 2011 (Sadanand Yadav v. State of Bihar). A learned Single Judge of this Court heard the matter and directed a High Level Inquiry Commission headed by a retired High Court Judge to be constituted. Hon'ble Justice Uday Sinha (retired) along with a retired IAS Officer and a retired Officer of IA & AS was constituted by the State Government. The report dated 06.06.2018 was also filed before the Government based on which the present demand is raised.

6. In the meanwhile, many of the writ petitions were disposed of before the report of the Committee. CWJC No. 711 of 2011 and 757 of 2011 were two writ petitions wherein similar contentions were raised, which were disposed of by order dated 06.07.2011, long before the Committee was constituted. Therein, the demand was directed to be treated as a show-cause notice on which a reply had to be filed before the Sub-Divisional Officer which would be considered and final orders passed; pending which there was no coercive action to be taken. The appellant also had filed a writ petition on similar lines which was disposed of by a common order in CWJC No. 5341 of 2011 and analogous cases



(Ram Vilash Mahto v. The State of Bihar & Ors.).

7. The appellant's writ petition was numbered as CWJC No. 11972 of 2011. The learned Single Judge noticed that the petitioners are licensees under the 1984 Unification Order as well as under the Public Distribution System (Control) Order, 2001. The challenge was also against the refund of value of undistributed rice under the 'SGRY' between the years 2002 to 2006 at the APL rate of Rs. 13.10 per kg. The learned Single Judge in the analogous cases followed the earlier order in CWJC No. 711 of 2011 directing a consideration but, however, also made a rider insofar as directing deposit of 20% of the value of undistributed rice at Rs. 10/- per kg. Appeals were filed by the various dealers who were the writ-petitioners. The appellant also filed LPA No. 422 of 2012 in which the learned counsel for the appellant submitted that in similar cases appeals were disposed of directing to pay 15% of the price of the undistributed rice calculated at Rs. 10/- per kg. In appellant's case since the Division Bench by order dated 28.03.2012 (Annexure-2 to the writ petition) directed payment of 15% of the price of the undistributed rice calculated at Rs. 8/- per kg.

8. It cannot be disputed by the appellant that though the writ petitions were disposed of, they were only in the nature of interim protection, directing payment of a portion of the amounts demanded till a final consideration is made. It is after the aforesaid judgments that the Committee was constituted as per the order of a learned Single Judge of this Court dated 21.10.2015. Annexure-4 produced in the writ petition is a notice issued by the Block Development Officer, which is dated 16.08.2016. The notice issued by the Block Development Officer is addressed to 20 PDS dealers in the Block. Reference is specifically made to Hon'ble Justice Uday Sinha Committee and representations were called for from all the above dealers. The appellant cannot now contend that there was no notice issued to him before the price for the undelivered rice was fixed. There is no public notice issued since the persons aggrieved were within the knowledge of the Government. In fact, individual notices were issued to the PDS dealers who were given the responsibility of distributing rice under the 'SGRY' through the Block Development Officer. The appellant is also said to have made a representation which was also considered by the Committee before the rates were fixed.

9. Admittedly, there was undelivered rice and the appellant has not raised any dispute on that in the earlier litigations. The appellant also subjected himself to the order issued in the writ petition and the writ appeal directing payment of a portion of the amount. What remained was only the final consideration of the



actual demand. Though the appellant was directed to pay Rs. 8.76 after the Committee's decision, the appellant was directed to pay Rs. 13.70 per kg., which determination was done after proper notice to all the affected persons. We find no reason to interfere with the demand raised.

4. We have to notice in the present case also, the petitioner approached this Court with C.W.J.C. No.22709 of 2011 which was sought to be withdrawn, as is evident from Annexure-6 produced along with the writ petition. The specific submission of the petitioner was that the inquiry commission headed by Hon'ble Justice Uday Sinha (Retd.) has now submitted its report and any further action relating to recovery would abide by the decision of the State Government to be taken on the basis of such report. Liberty was also reserved to challenge the same.

5. As of now, the recovery, as is seen from the counter affidavit filed in the L.P.A. is based on the Hon'ble Justice Uday Sinha Report, as was noticed in the earlier decision. Justice Uday Sinha had issued notice to each of the persons and considered the matter on the basis of the stock which was available with the licencees; which had not been distributed, as per the scheme of the State Government. It is pertinent to notice that though the petitioner speaks of repeated requests made to the authorities as to the disposal of the rice,



nothing is stated as of how the rice was eventually disposed. It is not even averred that the stock of rice was destroyed by sheer passage of time.

6. In the totality of circumstances, we find absolutely no reason to interfere with the impugned judgment. We dismiss the above appeal with the aforesaid observations.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
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