

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1651 of 2019

In

Civil Writ Jurisdiction Case No.4449 of 2019

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Ram Rati Prasad, son of Late Munshi Mahto, Resident of Village Kamal
Bigha, P.S.- Ariari, District- Sheikhpura

... .. Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Rural Development Department, Bihar, Patna.
2. The District Magistrate cum Collector, Sheikhpura, District- Sheikhpura.
3. The Deputy Development Officer cum Executive Officer Zila Parishad, Sheikhpura, District- Sheikhpura.
4. The District Manager, Bihar State Food Corporation, Sheikhpura, District- Sheikhpura.
5. The Sub Divisional Officer, Sheikhpura, District- Sheikhpura.
6. The Block Development Officer, Ariari, District Sheikhpura.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Devendra Prasad Singh
For the State	:	Mr.Anjani Kumar (AAG-4)
		Mr. Alok Kumar Rahi, AC to AAG-4
		Mr. Utkarsh Bhushan, Advocate
		Mr. Shailendra Kumar Singh, Advocate
For the BSFC (Respondent No.4):		Mr. Siddharth Harsh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-01-2024

The appellant was a Fair Price Shop dealer of the Aiphani Gram Panchayat under the Ariari Block within the Sheikhpura district having been issued with Lincence No. 08/90. It is admitted that in the status of a licensee, the appellant was allotted rice under the Sampurna Gramin Rajgar Yojana (for brevity 'SGRY') in the year 2001-2003. The appellant was to



act as a Store Keeper and carrier so as to store the rice and deliver it as per the permit issued by the Block Development Officer to the agent who distributes it to the labourers/workers. Subsequent to various litigations, the appellant has now been issued with an order directing remittance of an amount at the rate of 1370/- per quintal of rice undelivered to the agents but kept in storage by the appellant. The appellant challenged the said order before the learned Single Judge.

2. The learned Single Judge found that though the appellant was granted interim relief in the earlier litigation, as of now, the demand is as per the rate fixed by Hon'ble Justice Uday Sinha Committee, which was constituted in the light of an order passed by this Court. Annexure-4 dated 16.08.2016, produced in the writ petition was a proper notice issued, calling upon the appellant and similar dealers to make representations which were also considered by the Committee before the rate was arrived at. The learned Single Judge dismissed the writ petition, against which the appellant is before us.

3. Learned counsel for the appellant argued that even at the earlier instance, the appellant had approached this Court by filing CWJC No. 11972 of 2011, wherein he was asked to pay 20% of the value of the undistributed rice at Rs. 10/- per kg. by the learned Single Judge vide order dated 29.07.2011 (Annexure-1),



which order was modified to 15% of the price of the undistributed rice calculated at Rs. 8/- per kg, by the Division Bench vide order dated 28.03.2012 passed in LPA No. 422 of 2012 (Annexure-2 to the writ petition). There is no reason for further enhancement and the demand now raised, is arbitrary and in violation of the principles of natural justice. Learned counsel for the appellant also relies on a Division Bench judgment in CWJC No. 4612 of 2020 (Suresh Chaudhary v. The State of Bihar & Ors.).

4. Shri Anjani Kumar, learned AAG-4 contested the claim of the appellant and argued that the earlier writ petitions were disposed of, but the orders only provided an interim measure. As of now, the demand is as per the Committee's decision. There cannot be any contention raised of violation of principles of natural justice, since Annexure-4 to the writ petition clearly indicates the notice issued to the appellant and other dealers, all of which were forwarded to the Committee which fixed the rate.

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 aforereferred 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.

10. Now, we come to the Division Bench judgment in CWJC No. 4612 of 2020 (Suresh Chaudhary v. The State of Bihar & Ors.) relied on by the appellant. Therein, the writ-petitioner was directed to deposit the entire food-grains given to him for being disbursed to labourers under the 'SGRY'. The petitioner in the writ petition had raised a dispute on the quantity delivered to him. A Division Bench of this Court had subsequently found that "it is required to be verified as to whether any requisition by the concerned authority for giving food-grains to the workers employed under 'SGRY' was given and whether the food-grains meant to be given to the workers under SGRY was lifted by the petitioner in his capacity as a dealer" (sic). It was for verification of this aspect that the matter was remanded. There is no such contention raised in the present case and as we notice, the appellant does not dispute the lifting of rice and non-delivery of the same to the extent of the value which is now demanded from him.

11. We find absolutely no reason to find the appellant's



claim to be identical to that of the petitioner in CWJC No. 4612 of 2020. We reject the appeal confirming the order of the learned Single Judge on the additional reasoning stated herein. Parties shall suffer their respective costs.

12. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
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