

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.696 of 2023

Manjaura Primary Agriculture Credit Society Udakishunganj, District-Madhepura through it is Chairman Abda Tabassum, Female aged 30 years wife of Arsad Ansari, resident of Manjaura, P.S.- Bihariganj, District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The Principal Secretary, Cooperative Department, Government of Bihar, Patna.
4. The District Magistrate, Madhepura.
5. The Cooperative Extension Officer cum Enforcement Officer, Madhepura.
6. The Block Development Officer, Udakishunganj Block, Madhubani.
7. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
8. The District Manager, Bihar State Food and Civil Supplies Corporation, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 17-02-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

relief(s):-

“i. For issuance of the writ of mandamus commanding the respondent to enter into the agreement with the petitioner PACS of the KMS 2024-25 and onwards for the procurement of paddy and milling work.

ii. For issuance of writ of certiorari for quashing of the part of the order dated 20.3.2020 (Annexure-16 to W.P) passed by Secretary, food and consumer protection department by which Secretary



has constituted a enquiry committee to enquire about to Fair Average Quality (FAQ) of the Custom Milled Rice (CMR) remaining unlifted in the mill /down of the petitioner PACS and if the CMR is found in good quality then only the CMR is lifted.

iii. For issuance of a writ of certiorari to quash the inquiry report dated 21.05.2020 (Annexure-17), in which the committee formed by the Secretary conducted an assessment, after a two-year delay, and found that the CMR did not meet the FAQ standard.

iv. Other reliefs in the facts and circumstances of the case.”

3. This is the third round of litigation between the parties.

4. The issue pertains to the procurement year 2017-2018.

It is the case of the petitioner that he has procured 1101.00 quintals of paddy directly from the farmers for the purpose of converting the same into CMR. That the petitioner has thereafter, converted the paddy into CMR and intimated the respondent-BSFC vide letter dated 21.02.2018. That necessary documents were also issued by the concerned authorities with regard to the procurement and payment of money to the farmers. That the paddy has been converted into rice and the same was ready to be lifted. However, there was no response from the respondent-BSFC. That a final report with regard to the procurement of paddy was issued by the Co-operative Extension Officer, Udakishunganj, Madhepura and thereafter, enquiry report dated 07.04.2018 was also issued by the Block Officer, Udakishunganj evidencing the availability of CMR qty of 1054.20 quintals in the premises of the petitioner.



5. As there was harassment by the authorities, petitioner had given a report dated 17.05.2018 to the Principal Secretary, Co-operative Department and Collector, Madhepura. The Collector in turn has called for a report and a joint report of Deputy Development Commissioner and Sub-Divisional Officer, Udakishunganj dated 25.05.2018 was submitted after due inspection of the premises of the petitioner. That the respondents did not take interest in lifting the CMR, the petitioner had to approach this Court by way of CWJC and the said CWJC No. 14890 of 2018 was disposed off on 30.07.2018 to accept the CMR by 31.08.2018. As this was non compliance of the order passed in CWJC, the petitioner had to file contempt being MJC No. 3130 of 2018. The authorities instead of complying the orders of this Court passed in CWJC No. 14890 of 2018 having preferred LPA.

6. In the show cause filed in the contempt petition, the authorities have taken a stand that the District Magistrate vide letter dated 20.06.2018 had stated that the inquiry report submitted by the inspection team found 706 quintals of CMR against 1054.20 quintals of paddy. The same has been reiterated by the District Magistrate in his counter-affidavit filed in LPA. The District Magistrate has stated that on verification, it was found that 46.60 quintals of paddy in 117 bags and 1054.20 quintals of paddy



was found in the PACS and Mill respectively besides 706 quintals of CMR. LPA No. 1141 of 2018 was disposed off directing the Principal Secretary to examine the matter and pass necessary orders, the petitioner has thereafter, filed a representation before the Principal Secretary on 24.10.2019. The said representation was disposed off directing the authorities to lift the stock after due verification. That vide order dated 21.05.2020, the enquiry committee has refused to accept the CMR as it was not up to the mark by Fair Average Quality.

7. Learned counsel appearing on behalf of the petitioner has argued that due to the lapses committed by the authorities, the petitioner had to suffer huge financial loss. That the authorities with a mala fide intention to cause loss to the petitioner had refused to take the CMR which was milled from the paddy purchased from the farmers. That the various representations clearly point out to the fact that the CMR Rice was milled and ready to be lifted before the last date of procurement and the petitioner cannot be blamed for the spoilage/ damage due to lapse of time attributable to the respondents. Learned counsel has therefore, prayed for allowing the present CWJC with heavy costs.

8. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability



of the present writ petition and prayed for dismissal of the CWJC. Learned counsel has argued that the present CWJC is liable to be dismissed on the ground of laches and delay. Learned counsel has stated that the matter pertains to the procurement year 2017-18 and the petitioner has approached this Court after a lapse of more than three years from the date of last refusal of the authorities to lift the CMR due to inferior quality and spoilage. Learned counsel has further stated that there are seriously disputed questions of fact which cannot be gone into by this Court under Article 226 of the Constitution of India. Learned counsel has stated that the relief sought for by the petitioner cannot be granted and prayed for dismissal of the CWJC.

9. Admittedly, in this case, the petitioner has approached this Court after lapse of more than five years from the procurement year 2017-18 and three years from the date of last report by the authorities to lift the CMR, there is no explanation whatsoever in the present writ petition explaining the delay in approaching this Court. Further, it is to be noted that there are seriously disputed questions of fact which cannot be gone into by this Court under Article 226 of the Constitution of India. Though the enquiry report was submitted by the authorities on 21.05.2020 (Annexure-17), the petitioner has challenged the same only in the year 2023.



10. In *Jain Plastics and Chemicals Ltd.*, (5 supra), the

Hon'ble Supreme Court has held as under:

“3.It is to be reiterated that writ petition under Article 226 is not the proper proceedings for adjudicating such disputes. Under the law, it was open to the respondent to approach the court of competent jurisdiction for appropriate relief for breach of contract. It is settled law that when an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction of the High Court. Equally, the existence of alternative remedy does not affect the jurisdiction of the court to issue writ, but ordinarily that would be a good ground in refusing to exercise the discretion under Article 226.

7.It is true that many matters could be decided after referring to the contentions raised in the affidavits and counter-affidavits, but that would hardly be a ground for exercise of extraordinary jurisdiction under Article 226 of the Constitution in case of alleged breach of contract. Whether the alleged non-supply of road permits by the appellants would justify breach of contract by the respondent would depend upon facts and evidence and is not required to be decided or dealt with in a writ petition. Such seriously disputed questions or rival claims of the parties with regard breach of contract are to be investigated and determined on the basis of evidence which may be led by the parties in a properly instituted civil suit rather than by a Court exercising prerogative of issuing writs.”

(emphasis supplied)”

11. Further in *Sana Radha v. State of Andhra Pradesh*

2021 SCC OnLine AP 326 (at para 9) has held as under;

“This Court cannot also state simply that since there are disputed questions of fact it will not enter into the areas of controversy. This Court has a duty to spell out what are the disputed questions of fact, which need to be established and adjudicated. Therefore, the issues that are spelt out are for the



limited purpose of pointing out the matters which in the opinion of the Court need to be proved in a Civil Court through proper pleading and evidence. In the opinion of this Court, these are all the matters of pleading and evidence, which are best addressed and decided in a regular civil suit. In the opinion of this Court, a civil suit is the proper and efficacious remedy for this case and not a Writ. Disputed question cannot be decided in the Writ.”

12. Having regard to the same, this Court does not find any merit in the present writ petition which warrants any interference by this Hon’ble Court. The present writ petition is dismissed on the ground of latches and also on the ground that there are seriously disputed questions of fact which cannot be gone into by this Court. The CWJC is accordingly, dismissed granting liberty to the petitioner to approach the Civil Court for payment of the dues or damages from the respondent-BSFC, if he is so advised.

13. Accordingly, the present writ petition stands dismissed.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.04.2025.
Transmission Date	NA

