

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8389 of 2016

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R. M. K. Sinha @ Rajendra Mohan Kumar Sinha s/o Late Banke Bihari Sinha
r/o A-12, Sadhanapuri, South of Road No. 6D p/s- Gardanibagh, District-
Patna-1

... .. Petitioner/s

Versus

1. The Food Corporation Of India through the Chief Managing Director, 16-20 Barakhamba Lane, New Delhi.
2. The Chief Managing Director, The Food Corporation of India, 16-20 Barakhamba Lane, New Delhi.
3. The Chairman, The Food Corporation of India, 16-20 Barakhamba Lane, New Delhi.
4. The Managing Director, The Food Corporation of India, 16-20 Barakhamba Lane, New Delhi.
5. The Executive Director, East, Food Corporation of India, 10-A Middleton Road, Kolkatta-71.
6. The General Manager Food Corporation of India, Arunachal Bhawan, Exhibition Road, Patna.
7. The Area Manager, Food Corporation of India, Sahara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anant Kumar Bhaskar, Advocate
For the Respondent/s : Mr. Prabhakar Tekriwal, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 29-04-2025 Heard Learned counsel for the petitioner and Learned
counsel for Food Corporation of India.

2. The present writ petition has been filed for setting
aside the order dated 02.02.2016 *vide* No.PF/R-899/E.I
(annexed as Annexure-20) passed by the Managing Director,
Food Corporation of India, 16-20 Barakhamba Lane, New
Delhi, dismissing the appeal and affirming the order dated
29.06.2015 *vide* No.PF/S-899/E.I (annexed as Annexure-17)



passed by the Managing Director, Food Corporation of India, 16-20 Barakhamba Lane, New Delhi, by which the order of penalty has been imposed upon the petitioner for recovery of 50% of Rs.3,80,271/- (Rupees Three Lakh Eighty Thousand Two Hundred Seventy One), retired on 31.07.2014.

3. Learned counsel for the petitioner submits that the original order dated 29.06.2015 has been passed by the Managing Director which is annexed as Annexure-17 and against the said order, petitioner has preferred appeal which has also been passed by the Managing Director *vide* order dated 02.02.2016 which is annexed as Annexure-20.

4. Learned counsel for Food Corporation of India submits that counter affidavit has been filed in which stand has been taken that the petitioner has alternative remedy of filing review petition before the Reviewing Authority as per the regulations of the FCI (Staff) Regulations, 1971.

5. In the light of the submissions made, it transpires to this Court that the original order as well as the appellate order, both were passed by the same person i.e. The Managing Director, Food Corporation of India. Therefore, without entering into the merit or demerit of the case, *prima-facie*, it transpires that when the original order has been passed by the Managing



Director then the appellate order must be passed by the higher authority. But, here in the present case, the appellate order has also been passed by the same authority who has passed the original order. Therefore, the appellate order i.e. order dated 02.02.2016 *vide* No.PF/R-899/E.I (annexed as Annexure-20) is hereby set aside.

6. Hence, in this view of the matter, it is hereby directed to the Chairman, The Food Corporation of India, 16-20 Barakhamba Lane, New Delhi (Respondent no.3) to pass order on petitioner's appeal afresh within 90 days from the date of production of this order. It is made clear that at the time of passing order on appeal, petitioner shall be at liberty to place any supplementary pleading i.e. development taken place during the pendency of the present writ petition or any other relevant documents.

7. Accordingly, with the aforesaid direction, this writ petition is hereby allowed.

(Dr. Anshuman, J)

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