

(2018) 08 RAJ CK 0050
In the Rajasthan High Court
Case No : Civil Writ No. 12647 of 2015

Apni Bachat Ghar Yojana @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 08-08-2018

Acts Referred:

Rajasthan Panchayati Raj Act, 1994 — Section 92
Constitution of India, 1950 — Article 226

Citation : (2018) 08 RAJ CK 0050

Hon'ble Judges : SANDEEP MEHTA, J

Bench : Single Bench

Advocate : Sachin Acharya, Shridhar Mehta, R.R. Kanwar, Kuldeep Singh, Manish Patel

Final Decision : Dismissed

Judgement

Through this writ petition under Article 226 of the Constitution of India, the petitioner, being a registered cooperative society, has approached this court

seeking to assail the order dated 01.10.2015 passed by the Chief Executive Officer of the Zila Praishad, Churu, whereby the work of distribution of

MidDay Meal assigned to the petitioner was withdrawn and was handed over to the school management committee (SMC) concerned.Â From the

facts as placed on record, it appears that the Zila Parishad Churu issued an office order dated 27.10.2008 assigning the work of Mid-Day Meal to the

petitioner for the Gram Panchayat Bikamsara and Ramsisar Bhedwaliya.Â

The petitioner has claimed that it was regularly supplying wholesome and hygienic Mid-day Meal in the schools assigned to it by the order dated

27.10.2008 to the full satisfaction of the department.Â However, acting on a totally frivolous complaint filed by the petitionerâ??s rivals, the Zila

Parishad acted in an arbitrary fashion and unilaterally and without adhering to the principles of natural justice withdrew the work of distribution of Mid-

day Meal from the petitioner and assigned it to the school management committee (SMC) vide order dated 01.10.2015. It is contended by Dr.

Acharya that petitioner that the impugned action/order is absolutely illegal, arbitrary and perverse. The petitioner having performed its obligations

under the order dated 27.10.2008 to the full satisfaction of the all concerned, could not have been deprived of the said opportunity without holding any

enquiry and without assigned any reasons. He, thus, urged that the impugned order is arbitrary and bad in the eye of law and hence, the same

deserves to be struck down.

Per contra, Mr. Manish Patel, learned AGC, representing the respondents, placed reliance on this court's order dated 05.05.2018 passed in S.B.

Civil Writ Petition No.121/2012 [Padam Singh Vs. State (Rural Development and Panchayati Raj) & Ors.] and urged that the impugned order was

passed by the Chief Executive Officer, Zila Parishad, Churu while exercising powers under the Panchayati Raj Act and as such, the remedy of filing a

statutory appeal under Section 92 of the Panchayati Raj Act is available to the petitioner. On these grounds, Mr. Patel craves dismissal of the writ

petition.

I have given my thoughtful consideration to the arguments advanced at bar and have gone through the material placed on record. This court is of

the prima facie opinion that the petitioner is not entitled to any relief whatsoever in exercise of the extraordinary writ jurisdiction of this court. The

order Annex.1 dated 27.10.2008, under which the petitioner was granted the work of distribution of Mid-day Meal for the Gram Panchayats in

question by itself appears to be illegal and contrary to the principles of fair and transparent distribution of public resources and rather smacks of

favouritism. Manifestly, the petitioner would be gaining financially by the assignment in question. The work of providing Mid-day Meal in

numerous Gram Panchayats was assigned to the petitioner by the order dated 27.10.2008, apparently without making any attempt to float a tender or

invite applications from the other similarly placed aspirants. Furthermore, the order does not prescribe the time limit for which it would be effective;

meaning thereby, the contract for distribution of Mid-day Meal was handed over to the petitioner for an indefinite period without any checks and

balances. Some complaints were received against the petitioner and thereafter,

the District Collector directed that the work of distribution of Mid-day Meal should be withdrawn from the petitioner and be handed over to the school Management Committee.Â Manifestly, the said direction cannot be considered to be illegal or arbitrary because no conflict of interest was created by such direction as the work in question has thereafter been given to the school management committee itself.Â Manifestly, the direction given by the Collector is in line with the State Governmentâ??s policies and hence this court finds no reason to interfere in the impugned order so as to facilitate the petitioner to indefinitely carry on the contract involving distribution of public resources, which was granted to it without calling any bid etc.Â Resultantly, the writ petition is considered devoid of merit and is dismissed as such.Â The stay application is also dismissed.