
(2011) 07 PAT CK 0002
In the Patna High Court
Case No : CWJC No. 711 of 2011

Awadh Prasad Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-07-2011

Acts Referred:

Citation : (2011) 07 PAT CK 0002

Final Decision : Disposed Off

Judgement

Samarendra Pratap Singh, J.—The two writ applications are taken up together as the facts and issue are common. The petitioners of both the writ applications pray for quashing the orders issued by the concerned Sub-Divisional Officer, contained in Annexure-1, directing refund of value of undistributed rice under 50% & 30% of Sampurna Gramin Rojgar Yojana (hereinafter referred to as "the SGRY Scheme") in between the years 2002 to 2006 at APL rate of Rs. 13.10 per kgs.

2. A scheme namely SGRY Scheme was started by the Central Government and was made over to the District Rural Development Authorities of the State for its implementation. The scheme was fully sponsored by the Central Government under which employment was provided to the rural unemployed and the wages were to be paid partly in kind (rice) for the implementation of the scheme. It is the case of the State that the licensee under the Public Distribution System was entrusted with the work of carrying, storage and distribution of rice to the labourers on the permits which was issued by the implementing agency namely Gram Panchayat, Panchayat Samitee and Zila Parishad. The scheme lasted for four years from the years 2002 to 2006.

3. The petitioner Awadh Prasad Singh of C.W.J.C. No. 711 of 2011 is a P.D.S. dealer under Nawada Block in the district of Nawada having licence No. 17/85 (old) under 1984 Unification Order which was renumbered as 158/07.

4. The petitioner Suresh Prasad of C.W.J.C. No. 757 of 2011 is also a P.D.S.

dealer having licence No. 1/93 under Unification Order 1984 which was renumbered as 327 of 2007 under Akbarpur Block in the district of Nawada.

5. The petitioner Awadh Prasad Singh states that he was allotted rice under 50% & 30% of SGRY Scheme for the years 2002-2006 for being distributed against permits to be issued by the respondents. In other words, they were prohibited from distributing any quantity of rice without issuance of permits. On the other hand, the petitioner Suresh Prasad states that the State of Bihar had entrusted Rural Development Authorities for implementing the SGRY Scheme. Under the scheme the Rural Development Authorities distributed rice through Panchayat Samitee and Panchayat to the labourer for the work taken from them. The Rural Development Authority made it obligatory upon the petitioner and other P.D.S. dealers to store such quantity of rice as would be allotted to them for distribution under 50% and 30% of SGRY Scheme against issuance of permits. The petitioner submits that they had no control over the distribution of rice which was to be distributed only against permits to be issued by the authorities of the District Board, Panchayat Samitee or the Panchayat.

6. It is common case of both the petitioners that SGRY Scheme came to an end in the year 2006 and still quite a large quantity of rice remained in their godown on account of non-issuance of adequate permits for its distribution. The common case of the petitioners is that they had small godown and they did not have adequate infrastructure to protect the same from the vagaries of nature. The rice is a perishable item and quite sufficient quantity of rice had rusted as the authorities did not take them back.

7. The grievance of the petitioners is that after 4 1/2 years of closure of the Scheme, the authorities are demanding to refund the value of undistributed rice at APL rate of Rs. 13.10 per kgs. The case of the petitioners is that the rate of rice at the time of allotment to them was low and the authorities should not insist for refund the same at a higher rate.

8. A counter affidavit in C.W.J.C. No. 711 of 2011 has been filed on behalf of the State wherein it has been stated that in February, 2006 the S.G.R.Y. Scheme was closed and the balance of S.G.R.Y. rice was to be diverted from S.G.R.Y. to NREGA and due to certain mis-adjustment unspent rice remained balance with the writ petitioners. It has further been stated that earlier efforts taken to recover the rice at lower level were not successful. The office of the Accountant. General, Bihar has conducted audit of the scheme and submitted its report to the Government through letter No. 447 dated 9.1.2009 regarding the outstanding balance of rice with different dealers. It has further been averred that some of the P.D.S. dealers who were engaged in similar functions of carriage, storage and distribution of food grains (rice) under the S.G.R.Y. scheme have already deposited the price of balance rice at the rate of Rs. 13.10 per kgs.

9. Learned counsel for the petitioner submits that quite a number of similar cases came up for consideration before this court. In one such case, namely,

C.W.J.C. No. 16366 of 2009 (Satyadeo Rai v. The State of Bihar & Ore.) a learned Single Judge by order dated 28.2.2011 disposed of the case noticing that no adequate opportunity has been given to the petitioner thereof before issuance of the impugned memo demanding refund of the price of balance undistributed rice at the APL rate of Rs. 13.10 per kgs. The learned Judge observed that the impugned memo of demand be treated as a show cause to which the petitioner would be entitled to file a detailed reply and thereafter the authorities concerned would dispose of the application/representation of the writ petitioner in accordance with law.

10. As the facts of these cases are similar, I do propose to pass order in the aforesaid term. The impugned demand as contained in Annexure-1 to these writ petitions would be treated as a show cause notice. The petitioners would file their reply before the concerned Sub-Divisional Officer or the officer issuing the demand memo alongwith a copy of this order within six weeks from today, who in turn would consider the submissions of the petitioners and pass final order within three months thereof. In the meanwhile, no coercive steps would be taken against the petitioners. In case no representation is filed by the petitioners before the Sub-Divisional Officer or the officer concerned within six weeks from today, the latter would be at liberty to pass appropriate order. In such cases the interim order would be limited to six weeks from today. With the aforesaid observations and directions, these writ applications are disposed of.