
(2001) 02 PAT CK 0041
In the Patna High Court
Case No : C.W.J.C. No. 6930 of 2000

Binay Prakash Singh

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 05-02-2001

Acts Referred:

Citation : (2001) 1 BLJR 642 : (2001) 2 PLJR 49

Hon'ble Judges : S.K. Chattopadhyaya, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Chattopadhyaya, J.—Heard earned Counsel for the petitioner and the State.

2. This in one of those cases which will reveal tragic picture of small scale industries in the State of Bihar.

3. There is no dispute of the fact that the petitioner, a Small Scale Industry, on receiving several orders from the State Government printed the books and supplied them to the different District Adult Education Officers. As per the orders, this supply was made from 8.4.1987 to 21.10.1990. The petitioner submitted a bill of total amount of Rs. 4,16,073.61. Out of this total amount Rs. 1,63,613.35 remained unpaid. The petitioner represented times without number but the authorities concerned, for the reasons best known to them, did not pay the dues. Having failed in all spheres, the petitioner ultimately moved the appellate Authority constituted under Clause 15(a) of the Material Purchase Preference Rules which is commonly known as the State Liability Appellate Committee (Committee in short). This appeal was filed on 12.2.1996 and the Committee after hearing the State as well as the petitioner and perusing necessary documents found that the petitioner supplied the books as required by the State Government but even then dues were not paid to him. The Committee directed the respondents to pay the dues amounting to Rs. 1,63,643.35 immediately. The order of the Committee dated 18.5.1998 is annexure-6. It is also not in dispute

that against this order respondents filed Review Application on 14.10.1998 but the Committee rejected the said prayer on 19.3.1999 as contained in Annexure-7.

4. Uncontrovertedly, this order of the Committee was not challenged by the State in any higher forum. Even though this order of the Committee is dated 18.5.1998/19.3.1999 till date the said amount has not been paid and finding no other way, the petitioner has knocked the door of this Court.

5. Pursuant to order dated 3.8.2000, a counter-affidavit has been filed in which a very peculiar stand has been taken. For the first time, it is stated that the petitioner had failed to supply the books as per orders and terms and conditions. There was short supply and till date the department has paid the petitioner a sum of Rs. 1,27,673.80. Not only disputing the claim of the petitioner, now respondents have come with a plea that there was excess payment made to the petitioner. Moreover, the very jurisdiction of the Committee has been challenged by stating that it was beyond jurisdiction of the Committee as the provisions under Clause 15(a) of the Material Purchase Preference Rules, the decision is to be taken by the Purchase Committee, etc. This fact has been sworn by respondent No. 2 the Joint director of the Education Department. It is pertinent to mention here this sort of pleas were never raised by the Department before the Committee which is apparent from the Committee's order. Not only that, the Department did not challenge the order of the Committee before any forum.

6. Having considered the pros and cons of the entire facts, I am of the view that the respondents have come out with a frivolous plea only to frustrate the legitimate claim of the petitioner. Respondent No. 2 is probably under the impression that if he disputes the bills of the petitioner, the High Court will not interfere in the matter and will direct the petitioner to file civil suit. But in my view, he has been misguided in this regard. In the present case, admittedly the Committee which has been constituted by the State Government pursuant to certain Rules decided the matter after hearing both the petitioner as well as the Department. Order of the Committee does not reveal that any such plea was taken by the Department before it. Moreover, respondents even failed to get the order of the Committee modified. This order having not been challenged before any higher forum, in all fairness respondent No. 2 should have paid the said amount as soon as the order was passed at least in year 1999, when the Review Petition was dismissed.

7. In the result, this application is allowed and let a writ of mandamus be issued to respondent No. 2 the Director, Adult & Non-formal Education, Bihar, Patna directing him to pay the amount which has been fixed by the Committee with 18 percent interest per annum from 18.5.1998 till date the payment is made. This amount must be paid to the petitioner within six weeks from the date of receipt/production of a copy of this order before respondent No. 2.

8. It is made clear that if this order is not carried out promptly by respondent No. 2, this Com may not hesitate in initiating a contempt proceeding against him

because in other cases of this nature also, the High Court has observed with pain that even the decision of the State Liability Committee is not carried out by the department concerned on certain flimsy grounds.

9. With this direction, the writ application is allowed.