
(2015) 03 RAJ CK 0191

In the Rajasthan High Court

Case No : Civil (Pil) Writ Petition No. 18387 of 2012

Deepak Kumar Sharma

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 11-03-2015

Acts Referred:

Citation : (2015) 03 RAJ CK 0191

Hon'ble Judges : Sunil Ambwani, A.C.J;Prakash Gupta, J

Bench : Division Bench

Advocate : Vijay Yadav and Mukesh Dudi, for the Appellant

Final Decision : Dismissed

Judgement

1. We have heard learned counsel appearing for the parties.

2. By this writ petition filed in public interest, the petitioner has prayed for following reliefs:--

"(1) to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and thereby the respondents be directed ----

i) to ensure the compliance of provisions of law in the seed production programme to maintain quality and purity in the seed of Rabi, Kharib and Jayad, Oilseeds, Fiber crops, fruits and vegetables etc, and

ii) to make the perfect and mandatory guidelines in respect of the registration of farmer/grower, publication of list of registered farmer at gram panchayat office and on internet/website with the complete detail (Name and Address of the farmer/grower, Crop, Variety, Name of Agency, Identification of Land and Document), payment to grower/farmer through bank account with the photo ID, of the grant, subsidy and total price of the seed/crop of seed production programme, and

iii) to disclose the action which is taken by the respondents after receiving the

inquiry report and in the compliance of recommendation of the inquiry committee, and

iv) to take the appropriate disciplinary action against the officers who found guilty in the scam of seed production programme Rabi, 2010-2011 as well as to lodge a criminal case against them with private agencies and persons, and

v) to make a detail inquiry of last three years seed production programme, in all crops and in all units of the State and National level, of all the respondents through Central Bureau of Investigation, and

vi) to take appropriate action against the persons who found guilty, under the provision of Seed Act, Essential Commodities Act and other relevant provisions as well as under the Indian Penal Code, and

vii) to seize the poor quality seed from market and storage godowns, and recover the loss from the negligent and guilty officers, agencies and persons as well as to take strict action against the blackmarketeers, and

(2) to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and thereby the respondents be directed to hold a detail inquiry for non-compliance of the provision of law in seed Production and Distribution programme, to fix the responsibility and necessary punitive action may kindly be ordered to be taken against those responsible for this kind of misdeeds.

(3) to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and thereby the respondent No. 1 and 5 be directed to conduct the seed production and distribution programme through Agriculture Supervisor of the Gram Panchayat, and

(4) to kindly issue a writ of Mandamus or any other writ, order or direction in the nature thereof and thereby the respondents respondent No. 1 and 5 be directed to declare the Gram Panchayat, as Nodal Agency in sale, purchase, storage, labelling, marketing and certification of seeds.

(5) Any other appropriate writ, order or directions which is deemed just and proper by this Hon"ble Court may also be passed in favour of the petitioner;

(6) Costs of the writ petition may also be allowed in favour of the petitioner."

3. An Enquiry Committee was constituted by the Principal Secretary, Agriculture - cum- Chairman Rajasthan State Seeds and Organic Production Certification Agency, Jaipur, under the Chairmanship of Shri G.S. Sandhu, Joint Director (Agriculture), Jaipur, consisting of Shri B.S. Gupta, Seed Certification Officer (Quality Control), Headquarters, Jaipur, Shri Chandrabhan Singh, Seed Certification Officer, R.S.S.O.P.C.A., Unit Jaipur, Shri J.S. Rathore, Deputy Seed Certification Officers, Headquarters, Jaipur and Shri S.K. Sharma, Assistant Seed Certification Officer, Headquarters, Jaipur. The Committee carried out detailed inspections of the records, and took the statements of the farmers, with the terms, to enquire as to whether the State Farms Corporation of India (SFCI) has

got the seed certifications made, by falsely showing the agricultural lands of the landless farmers; whether the farmers were given detailed information regarding the production of seeds, and the process of certification; whether the farmers received the grants payable to them, for growing the seeds; and lastly, as to whether all the seeds were certified, in accordance with the Seed Production and Distribution Programme.

4. The Committee returned the findings, that in Rabi Year 2010-11, the SFCI did not distribute the seeds by itself; the seeds were distributed through Shri Dhanna Lal Dhayal of Rajdhani Seeds Sales Corporation, which creates doubt over the distribution of foundation seeds; the bills of the foundation seeds and gate-passes were not issued individually; a common release order was shown to be issued to all the villagers, which appears to be a manipulation, in which fraudulent documents were prepared; the stock registers were not maintained at the sales centre, and in which the stocks were not entered, and that, entries were made subsequently, on the basis of sales, without verification of the officers/employees; the sales of seeds were shown by cash, whereas the Enquiry Committee was told that the price of the foundation seeds is adjusted in the price of the raw seeds, which also raise a doubt, as to whether the release orders were issued after making cash payments. The Committee further found that the farmers were not given information by SFCI, regarding the production of the seeds and the seed certification, as well as policy of sale, which also creates a doubt over the intentions of the SFCI, right from the beginning; the SFCI, allowed distribution of the seeds, without verifying the undertakings given by farmers on the non-judicial stamp paper of Rs. 100/-, and that, the documents, such as release orders and the receipts of the raw seeds do not tally. The signatures on these documents appears to be fraudulent. The advance payments were made, without obtaining the signatures of the farmers, and that, all the signatures appear to be made by a single person, which also raises doubt over the payment of advance amount.

5. The Committee also reported that the cheques issued for advance payments, were not made through SFCI, and that, the SFCI did not issue the copies of the advance payment letters and final payment letters. A cheque was issued in the name of a dead person, which also appears to be a fraud played by the officers of the SFCI.

6. It is submitted that no action was taken on the report by the SFCI, and that, the whole matter was hushed up.

7. In the counter-affidavit filed on behalf of respondents No. 5 to 7, it is stated that the action was expected to be taken by the SFCI, New Delhi, against the guilty officials at Jaipur, and the proprietors of the Rajdhani Seeds Sales Corporation are required to be investigated with regard to the defalcation of the subsidy, which was to have been paid to the producers.

8. In the additional affidavit filed by Shri Jaipal Singh, Regional Manager and

Officer Incharge of the case, it is stated by the SFCI, as follows:--

"1. That respondent SFCI incorporated under the provisions of Companies Act, 1956 is a Government of India undertaking under the Ministry of Agriculture, Government of India. It is mainly engaged in the production of seeds of cereals, pulses, fibre crops, oil seeds, vegetable and fruits as well as study of these crops through mechanized farms, presently situated at (i) Suratgarh, Sardargarh and Jetsar in the State of Rajasthan, (ii) Hisar in the State of Haryana, (iii) Raichur in the State of Karnataka.

SFCI is in seed production activity since 1974 and is one of the largest seed producers in the Country. It produces seeds of highest genetic purity and best quality. Seeds produced by SFCI are distributed for the end users i.e. farmers. Seeds produced by SFCI and other agencies meets 60% of requirement of farmers. Hence to meet part of remaining requirements, SFCI arranges seed production programme at the growers field in addition to its own farms.

2. That during the year 2010-11, SFCI has produced 8 lacs quintals of seeds of various crops and no complaint was made against it save and except mentioned in the above writ petition, subject matter of which is about 11,000 quintals of seeds.

3. That in so far as the enquiry report as has been enclosed by the petitioner vide ANNEXURE-10 dated 17.08.2011 is concerned, the humble respondent would like to make submissions precisely that -

i) The enquiry report, which has been enclosed by the petitioner is not complete report, as is evident from the ANNEXURE-10, which is a letter under which the enquiry report along-with the documents were sent to the Director RSSOPCA, was containing about 157 pages, whereas the petitioner has enclosed only 17 pages. The documentary vis-?-vis the oral evidence which have been recorded by the enquiry committee, have not been enclosed because none of the witness has complained about dissatisfaction of the SFCI seed production programme. On the contrary, everyone has acknowledged the payment of their seed production as per the purchase price, which has been prescribed by the Government of Rajasthan for the year 2010-11. It is also an admitted fact that every payment was made through A/c payee cheque to the concerned farmer. This has wrongly been alleged by the petitioner that a cheque was issued in the name of dead person namely Madan Lal S/o. Pema Ram. As a matter of fact the A/c payee cheque was though issued in the name of Madan Lal S/o. Pema Ram who was fully alive receiving the cheque. Incidentally, there are two Madanlal having similar father's name i.e. Pema Ram. The cheque was given and received by alive Madan Lal S/o. Pema Ram who too was associated with the SFCI in the seed production programme during 2010-11.

ii) The Enquiry Committee has not considered the provisions contained in Rule 6 of the Seed Rules, 1968, which contains functions of Certification Agency. In the present case in the year 2010-11, the seed programme was given to the farmers

with full consultation with the Seed Certification Agency in accordance with their guide-lines and the Seed Rules. Every seed programme was/is fully transparent and attains finality after going through the various stages as inspection, made by the Government of Rajasthan through their own agency and officers. For ready reference Rule 6 is reproduced here under:--

PART IV Seed Certification Agency

Functions of the Certification Agency:- In addition to the function entrusted to the certification agency by the Act, the Agency shall-

- a) Certify seeds of any notified kinds or varieties:
- b) Outline the procedure for submission of applications and for growing, harvesting, processing, storages and labelling of seeds intended for certification till the end and ensures that seed lots finally approved for certification are true to variety and meet prescribed standards for certification under the Act or these rules:--
- c) Maintain a list of recognized breeders of seeds:
- d) Verify, upon receipt of an application for certification that the variety is eligible for certification, that the seed sources used for planting was authenticated and the record of purchase is in accordance with these rules and the fees have been paid:--
- e) Take sample and inspect seed lots produced under the procedure laid down by the certification agency and have such sample tested to ensure that the seeds conforms to the prescribed standards of certification:
- f) Inspect seed processing plants to see that the admixtures of other kinds and varieties are not introduced.
- g) Ensure that actions at all stages, e.g. field inspection, seed processing plant inspection, analysis of samples taken and issue of the certificates (including tags, marks, labels, and seals) is taken expeditiously:
- h) Carry out educational programme designed to promote the use of certified seeds including a publication listing certified seed growers and sources of certified seed:
- i) Grant certificates (including tags, labels, seals, etc.) in accordance with the provisions of the Act and these rules.
- j) Maintains such records as may be necessary to verify that seed plants for the production of certified seed were eligible for such processing under these rules.
- k) Inspect fields to ensure that the minimum standards for isolation, rouging (where applicable) use of male sterility (where applicable) and similar factors are maintained at all times, as well as ensure that seed borne diseases are not present in the field to greater extent than those provided in the standards for

certification.

(iii) That so far as the allegations levelled against SFCI with regards selling and distribution of seeds through M/s. Rajdhani Seeds Sales Corporation are concerned, are not correct as alleged by the Petitioner. As a matter of fact, the seed production programme was launched by the SFCI in the Renwal area with full of transparency in accordance with the rules and regulations and guide-lines issued by the Government of Rajasthan from time to time. Every programme attains its finality after due verification and certification by the government agency i.e. Rajasthan State Seed Organic Production Agency who is respondent No. 6 in the writ petition. In the year 2010-11 information about seed production programme was given by SFCI's representative at the time of seed distribution to all the farmers. As far as the question of taking seed from Sh. Dhanna Lal Dhayal of M/s. Rajdhani Seeds Sales Corporation is concerned, SFCI awarded contract to M/s. Rajdhani Seeds Sales Corporation only for storage, grading and packing of seeds produce during last season since SFCI Jaipur has no godown and processing plant in that particular area. M/s. Rajdhani Seed Sales Corporation has been issued licence by the Seed Certification Agency of Rajasthan Government as seed processing plant. For that a written contract was entered into for the year 2010-11. Copy of the contract is enclosed as Exhibit-1 in the year in question the seed was distributed by SFCI representative from the godown of M/s. Rajdhani Seeds Sales Corporation where the seeds were stored. There might be some confusion among the farmers as M/s. Rajdhani Seeds Sales Corporation are also undertaking the seed production programme of their own whereas it has not played any role in the said programme.

All the farmers were made aware verbally about seed production programme. The responsibility to make the farmers aware about certification process is of RSSOPCA who inspected the fields from time to time. However seed production programme is a joint venture of SFCI and Government Agency (RSSOPCA) i.e. respondent No. 6 as well. The farmers were told that payment of seed will be made as per policy of RSSC. All the information was provided, although this was the duty of RSSOPCA i.e. respondent No. 6 as per Krishak Margdarshika enclosed, which was published and circulated by respondent No. 6. The copy of the same is enclosed as Exhibit 2. iv) So far as para 3 of enquiry report is concerned no seed was ever issued by M/s. Rajdhani Seeds Sales Corporation to the farmers since at the place of M/s. Rajdhani Seeds Sales Corporation space for godown was hired for storage of seed of SFCI because the respondent did not have space or godown at Renwal area, that is why through written contract, the godown was taken-out. Every farmer was given seed from that godown through the authorised representative of SFCI. Every seed was sold out and distributed by the said representative for and on behalf of SFCI after making entry in release order which is kept at units. The release order for sale of seed was issued after entering complete details of farmers including name and village. Due to shortage of release order book at the relevant point of time, at the place of distribution the names of more than one farmers were entered in the release order. There is

no illegality in doing so.

(v) so far as para 3(i) of enquiry report is concerned, it is submitted that 200 qtls Gram (Chana) RSG-888 Foundation Seed from Central State Farm Sardargarh was sent for seed production through Regional Office, Jaipur. Out of that 100 qtls was sent to Renwal unit and 100 qtls to Sikar unit for distribution among the farmers. Entry of the same was made in distribution registered maintained in Renwal unit. Entry of balance 100 qtls was made in Central Stock Register for purchasing the seed being maintained at Regional Office, Jaipur. Infact, the stock register is centrally maintained at Regional Office, Jaipur. Copy of stock register was made available to the enquiry committee also, however for ready reference copy of the same is enclosed herewith and marked as Exhibit-3.

(vi) That so far as Distribution, record is maintained at the place of unit, whereas records for receipt of seed are kept at Regional office, Jaipur. The same shall be produced as per Hon"ble Court's direction. 100 qtls foundation seed was issued in a day to the farmers on 16.11.2012 on proper Release Order as the optimum sowing time was approaching fast. There was proper distribution of gram seed variety RSG-973. Sale of seed is made on cash basis. There is no manipulation at all. So far as the enquiry report is concerned it is respectfully submitted that:

(vii) As regards, undertaking on non-judicial stamp paper of Rs. 100/-, it is stated that it was given after verification of documents. However, seed sown by his companion farmer or seed sown but not germinated later on, such area was rejected by the authority of RSSOPCA for which no objection was raised by SFCI. All the farmers were aware that the programme is of SFCI and SFCI only will purchase their raw-seeds. As regards of rejection of 2151 acre area out of 6020 acre, it is clarified that some farmers had sown the seeds on the lands of their relatives or neighbours but while carrying out inspection, RSSOPCA authority did not consider it valid and area was rejected. Due to sowing in rainfed (Barani) area and rain after sowing in huge area germination effected badly. 1377 acre area was provisionally inspected by RSSOPCA because of non availability of required documents. SFCI accepted it and made no objection. Undertaking on non-judicial stamp of Rs. 100/- was submitted on the basis of verification of documents and affidavit (notary attested) given by the farmer concerned.

(viii) So far as the finding of enquiry report with regard to purchase of seed produce is concerned, it is submitted that the owner of M/s. Rajdhani Seeds Sales Corporation is Sh. Dhanna Lal Dhayal and intake of gram raw-seed was in progress at their godown by SFCI representative on proper receipt, statement of farmers that they had handed-over the raw-seed to Sh. Dhanna Lal Dhayal not to SFCI is not reliable whereas farmers were well aware that payment of seeds is to be made by the SFCI on the basis of receipt issued by our representative. Sh. Dhanna Lal Dhayal had no concern with the intake of raw-seed. There is no boundation and any representative of farmers can handover raw-seed for intake. Farmer has accepted the receipt of payment.

So far as the purchase and payment policy is concerned it is submitted that purchase policy was informed to the farmers verbally by SFCI representative. The farmers were very well aware that payment of seed is to be made by SFCI on the basis of the receipt given by the SFCI representative. Denials of farmers is not reliable. Though written information was not given but verbally all the farmers were made aware that advance/final payment will be made as per policy of RSSC i.e. Rajasthan State Seed Corporation. Payment was made through A/c Payee Cheques by accounts section. No adjustment was made and seed was distributed on cash payment basis.

(ix) That so far as the finding of enquiry report with regard to subsidy payable on seed produce is concerned it is submitted that production subsidy @ 750 per qtls on graded seed of gram was to be paid to the farmers and all the farmers were made aware about that but as the entire seed production programme was rejected by the Agency i.e. respondent No. 6, no seed was purchased during the year in question hence no question of payment of production subsidy arises. Purchase rates for raw/graded seeds were as per RSSC i.e. Rajasthan State Seed Corporation. Farmers were made aware verbally about that. Under-size after grading is returned to the farmers on proper receipt. Mostly farmers are illiterate and their signature may not match with the signature earlier made as observed by the committee.

The statement of witnesses as discussed by the enquiry committee it is submitted that:--

a) "Sh. Krishana Ram S/o. Baxa Ram has stated their seed was handed over of which receipt was issued by SFCI later on. Payment can be delayed there is nothing ir-regular in it.

b) Sh. Suva Ram S/o. Hanumana Ram r/o Prithivirajvas has stated that he has handed over 110 qtls gram seeds to Sh. Ramu Ram who is his relative. He was told that seed will be graded on machine at Renwal. It does not reflect any illegality.

c) Sh. Bhanwarlal S/o. Ramu Ram has clearly stated that he has received under-size seed. In fact, the seed of inferior quality was returned to him.

d) Sh. Narayan S/o. Seva Ram and Sh. Ratanlal S/o. Sh. Pabudan have stated that once seed is cleaned, for maintaining quality SFCI accepts the seed after pre-cleaning to remove dust and inert matter, If found in raw-seed. It also does not show any illegality and negligence on the part of SFCI.

e) Sh. Ishwar Ram S/o. Sh. Mansa Ram has clearly stated that he has received full payment and nothing is outstanding towards SFCI. It clearly shows that the farmer was confused before the enquiry committee.

f) Sh. Harla Ram S/o. Sh. Ramu Ram Doon of Doonakidhani has stated that he had handed over 55 bags of gram seeds and in SFCI receipt is shown 60 qtls. In fact receipt is issued after proper weighment, whereas farmers have stated the

estimated quantity in bags which may vary. The farmer is illiterate as he has affixed thumb impression on the statement hence no question of making signature arises.

As per rules excess quantity than the estimated maximum yield per acre declared by RSSOPCA can't be taken hence only declared quantity was accepted.

Due to oversight 54 qtls gram RSG-973 was taken from one Sh. Bheeva Ram S/o. Heeralal resident of Joshipura out of rejected area which was immediately returned to the farmer.

Against total estimated quantity of 15122.80 qtls intake of 15101.00 qtls was done by SFCI. Some area was provisionally inspected. Raw-seed from this provisionally inspected area was also taken from the farmers, but payment of this quantity was not made to them, as the matter was under dispute. The farmers were pressing us either to make payment or to return raw-seed hence SFCI returned 1361 bags of seeds to the farmers which were found short by the committee.

Gram RSG-888 and RSG-973 were stored together but bags were properly marked hence there was no possibility of admixture in both varieties therefore no illegality has been committed by the SFCI in the seed production."

9. We have perused the reply on the allegations made in the writ petition and the findings of the Enquiry Committee, and have gone through the documents annexed with the reply of Shri Jaipal Singh. We are of the opinion that the enquiry report is based upon doubts, expressed over the Programme of the SFCI in Rabi Year 2010-11, for distribution of foundation seeds and the purchase of certified seeds. The entire Programme was cancelled, and that, no certified seeds were actually purchased from the farmers. The findings of the Enquiry Committee were all in the nature of the doubts, which have been explained, in detail, by the SFCI. A few mistakes, such as, payment made to a dead person, which was subsequently rectified, do not call for any further action, to be taken in the matter. Since the programme was cancelled by the Agency and the certified seeds were not purchased, no payment of subsidy was required and no further action was required to be taken in the matter.

10. We find that the writ petition has been filed by the persons, who were not satisfied with the cancellation of the Programme and the purchase of certified seeds, in which the subsidy was to be passed on to the farmers.

11. The writ petition filed in public interest, does not call for any further enquiry or investigation, and is accordingly dismissed.