

(1996) 11 AHC CK 0090

In the Allahabad High Court

Case No : Writ Petition No. 3384 (M.B.) of 1996 and 3356 (MB) of 1996

Devi Enterprises Bachhrawan Distt.Rae Bareilly and Anr.,etc.	APPELLANT
Vs	
F.C.I.,through its Chairman & Ors.	RESPONDENT

Date of Decision : 21-11-1996

Acts Referred:

Citation : (1996) 11 AHC CK 0090

Hon'ble Judges : S.H.A.Raza, J and Shobha Dikshit, J

Final Decision : Allowed

Judgement

S.H.A. Raza, J.—Under a scheme known as Open Market Sale (Domestic) Scheme, the Food Corporation of India has directed the Senior Regional Managers and the District Managers of the Food Corporation of India to allocate and sell the stock of foodgrains to grain dealers for purposes of stabilising the prices in the open market. It may be also for the reason that the Food Corporation of India has sufficient stock and the authority of the Food Corporation of India, might have been facing difficulty in storage.

2. The scheme was circulated in very offices for the sale of wheat stock allotted for the said purpose and for the month of October and November, application were invited. As far as the sale of wheat for the month of October is concerned firstly the cut off date for receiving the applications was fixed upto 10 October, which was later on extended upto 25th October. The Senior Regional Managers were directed to scrutinise the applications and release the stock of food grains to the extent on one hundred metric tonnes, where the stock was five thousand metric tonnes and two hundred metric tonnes, if the stock was above five thousand metric tonnes. Accordingly under the said scheme a committee was constituted to scrutinise the applications up to 2nd November and release the quota by 5th November. For one reason or the other the committee decided to club the quota of stock of wheat under the scheme for the months of October and November together.....for the reasons that Dewali festival was near and the number of applications were large. It was decided that in accordance with the

applications which were received upto 28th October, 1996 the stock of the wheat be given to the dealers, who had applied and deposited 10% of the total price as earnest money. At that time there were 447 applications. The quantity of the wheat available at that time was not sufficient to allot the quantity which was indented by the dealers. Therefore, the committee took a decision to allot 85% of the quantity indented by the buyers who had deposited the balance amount of 90% after adjusting the earnest money and the other parties who had not deposited full cost have been allotted lesser quantity of wheat. The total quantity of wheat was of 90224.5 metric tonnes as against 50,000 metric tonnes of October quota and 45000 metric tonnes of November, quota. After the distribution for the month of October, writ petitions were flooded before this Court. On 8/11/1996 in writ petition No. 3270(MB) of 1996 a Division Bench of this Court passed the following order:

"Submission of the petitioners Counsel is that scheme for open market sale of foodgrain is contained in Annexure1 which provided that senior Regional Manager, Lucknow will receive applications from intending buyers upto 31/10/1996 and thereafter on 2nd November, 1996 the said application will be scrutinized by the three member committee and the committee will finalise the matter before 5th of November 1996. However Annexure 5A shows that the foodgrains was allotted for the month of November 1996 on 29th October, 1996 itself. Miss Veena Sinha who had been granted the time to obtain instructions failed to point out as to how foodgrain was sold on 29/10/1996 especially when the application had been invited upto 31/10/1996."

3. Sri Munni Lal, Assistant Manager Commercial is present and he also failed to point out as to why stock was allotted. He stated that several applications had already been received, hence stock was allotted on 29th October, 1996 itself and thereafter applications were not received. The petitioner submits that he has already prepared a draft on 29th and 30th October, 1996 but his application was refused. The petitioner is ready to furnish the said application within 4 hours before the Senior Regional Manager? Lucknow opposite party No. 3. If the same is given then the opposite parties are directed to consider the said application also for allotment of stock forthwith. The order is passed in presence of Sri Munni Lal Assistant Manager who ensures the compliance.

4. The petitioners before us have raised two main grievances against the manner in which the food grains stock were allotted and given to the dealers. Firstly, that no public notice were issued to invite applications for the dealers. Miss Veena Sinha Counsel appearing for the Food Corporation of India stated that large number of applications have been received by the District Managers as well as Senior Managers which shows that the dealers have the knowledge of the scheme. The notice was posted at the notice board of the District Manager's office of Food Corporation of India.

5. We are of the view that what has already been done, has been done and we cannot set the clock back. However, it will be appropriate for the Food

Corporation of India in future, when it decides to sell the stock in future, that it should publish the notice in some daily newspaper at least one in English and one in Hindi to enable the dealers to apply for purchasing the stock of the foodgrains.

6. The second contention which has been raised is that although the Food Corporation of India had issued different directions for the lifting of the stock or sale of stock for the month of October and November separately, but Food Corporation of India did not accept the applications from the dealers, who wanted to purchase the wheat for the month of November. Probably, the application received for the month of October were large in numbers and as the stock was limited and was to be distributed prior to the Dewali Festival, hence committee clubbed together the stocks of October and November. We are of the view that this action on the part of the former senior Manager or the Committee was not proper, inasmuch as it was contrary to the directions of the Food Corporation of India.

7. In that regard, we have asked Miss Veena Sinha to request the Senior Regional Manager of the Food Corporation of India at Lucknow to appear before this Court. Sri M.D. Saxena who joined as Senior Regional Manager of Food Corporation of India on 16th November, appeared before this Court. He submitted that he was least responsible for the decision which was taken prior to his joining. The decision was taken by the erstwhile Senior Regional Manager and the Committee prior to his joining the post and the stock which was available upto the month of October, has already been sold away, hence nothing can be done now to set the things right, but he has assured that in future he and members of the Committee will strictly adhere to the guidelines of the Food Corporation of India. He pointed out before this Court that till now the total stock available under the said scheme is only 13905 metric tonnes. As far as the stock remaining of which for sale which was to be sold to dealers for the months of October and November is concerned, large number of applications have been received, but stock of wheat with the Regional office of the Food Corporation of India is not as such, where 170 metric tonnes or 200 metric tonnes or above can be given to every dealer, but he assured this Court that the applications which have been received upto 31st October, that would be scrutinized and considering the position of the remaining stock it will be distributed equally amongst all the applicants.

8. On behalf of some of the petitioners Mr. A.P. Singh Gaur submitted that, as the applications for sale of the wheat for the month of November, were not accepted by the District Managers or Senior Regional Manager of the Food Corporation of India and it was not given due publicity in the newspapers, the applicants to be allotted 300 metric tonnes of wheat and if that would not be possible, then atleast they should be given 170 metric tonnes of the wheat, which was released in favour of some of the applicants for the month of October.

9. Miss Veena Sinha on behalf of the Food Corporation of India submitted that as

the stock is limited, so it would not be physically possible to release such quantity of stock to every applicant, but if the Central Government or Food Corporation of India release the stock, the Senior Regional Manager shall have no objection.

10. Considering the aforesaid situation, we are of the view that from the available stock of wheat for the month of October and November 1996 under the said scheme, the senior Regional Manager will distribute the stock to those dealers, who have submitted their applications upto 31st October, in equal quantity, but in future he shall strictly adhere to the guidelines of the Food Corporation of India. Those applicants, who got their bank draft prepared before 31st October, 1996 and moved applications for the month of November 1996 and were not accepted, would be received by the Senior Regional Manager and they will get priority in the matter of allotment of wheat if the same would be available for the month of December or onward.

11. In view of what, we have indicated hereinabove, the interim order passed earlier stands modified in accordance with the observations mentioned above.