
(2019) 01 JH CK 0072
In the Jharkhand High Court
Case No : Writ Petition (C) No. 6575 Of 2018

Dumka Traders

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 24-01-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 01 JH CK 0072

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : A.K. Sahani, Ajit Kumar

Final Decision : Disposed Off

Judgement

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder the direction has been sought for upon the respondent to release the sum of Rs.1,79,613.00/- along with the interest at the rate of 18 per cent per annum.

2. The grievance of the petitioner that he has been issued with work order for supplying food grain articles in Central Jail, Dumka, in pursuance thereof, the supply has been made, thereafter Bills have been submitted for its sanction and disbursement to the tune of Rs.1,79,613.00/- but the same has not been entertained on the basis of a decision taken by the Inspector General of Prison, Jharkhand in its letter No. 2473 dated 23.05.2017 whereby and whereunder the minimum ceiling of the rate of materials have been sanctioned and fixed.

3. The grievance of the petitioner that he has supplied the food grains articles to the said Prison therefore on the basis of cost, which has been incurred upon him in purchasing the articles, is entitled to get the same but having not done so rather applied the letter dated 23.05.2017 to release the Bill on the basis of the maximum ceiling but on the basis of the rate certified by the Jail Superintendent the same is sought to be extended, therefore the petitioner will be at loss, hence

this writ petition.

4. Learned A.C. to A.G. has submitted that admittedly there is no tender for supply of food grains therefore in the tender notice no price has been quoted further the petitioner has been directed to supply food grains articles in pursuance to the work order issued by Jail Superintendent Central Region Dumka vide letter dated 05.04.2017 as contained under Memo No. 1274 and without the articles having been supplied.

5. The petitioner has submitted that the authorities are not disputing the Bill but the only question raised by the decision of the Inspector General Prison, Jharkhand in its letter dated 23.05.2017 is that the maximum ceiling of the rate has been fixed by the Head Quarter and the rates which will be sent by the respective Jails whichever will be less the payment will be made on that basis therefore, the authorities are not in a position to make payment but the petitioner is making endeavors to get the amount on the basis of his rate which will be said to be in contrary to the decision taken by the Inspector General Prison, Jharkhand dated 23.05.2017 and if that be so the wide course of the petitioner would be to question that the decision dated 23. 05.2017 but having not questioned the same, the petitioner cannot claim the quantum of amount on the basis of the rate submitted by him in the Bills.

6. Having heard learned counsel for the parties and after appreciation of their rival submissions it is evident that there is no tender issued for supply of food grains to the Inspector General Superintendent, Central Jail, Dumka, however, a work order has been issued on 05.04.2017 under the signature of Jail Superintendent Central Region, Dumka directing the petitioner to supply certificate of food grains articles. The authorities while issuing the aforesaid work order has made a reference that the decision with respect to the sanctioned order by the Inspector General of Prison, Jharkhand, Ranchi will have to be complied with by the petitioner.

7. The petitioner after accepting the terms and conditions of that work order, has supplied food grains articles and thereafter submitted the Bills. The dispute arose for quantum of the amount since petitioner on the one hand is claiming on the basis of the rate furnished by the Jail Superintendent subject to the ceiling limit as has been fixed by the head quarter as would be evident from the letter issued by the Inspector General Prison, Jharkhand in Reference Case No. 2473 dated 23.05.2017 which has been annexed as Annexure-8 dated 05.01.2018 to the writ petition.

8. It is settled position of law that once an order has been accepted by anybody at the same time there cannot be any approbate and reprobate thereby one part cannot be accepted and other part cannot be refuted.

9. It is evident from the order dated 05.04.2017 by virtue of it, work order was issued in favour of the petitioner to supply food grains articles containing therein a condition regarding the sanctioned order issued by the Inspector General

Prison, Jharkhand, Ranchi.

10. This Court has considered letter dated 23.05.2017 whereby and whereunder the ceiling limits of the rates have been fixed depending upon the rates to be furnished by the respective jails and the quantum of amount pertaining to the Bills, subject to the supply of the food grains articles will depend on the basis of the maximum ceiling.

That instruction suggests that at the time of making payment on the basis of Bill submitted by the supplier a certificate with respect to the rates would be given by the respective Jail Superintendent subject to ceiling limit fixed by virtue of the said letter dated 23.05.2017 and on the basis of lower rate, the amount would be disbursed.

11. The petitioner since has not questioned the letter dated 23.05.2017 therefore the same will be applicable to him in pursuance to the condition of supply order dated 05.04.2017 which contains the reference of sanctioned order of Inspector Jail Prison, Jharkhand, Ranchi.

12. Learned counsel for the State has submitted that there is no fault on the part of the authority on the basis of the communication dated 23. 05.2017 therefore this Court thinks it proper to dispose of the instant writ petition by negating the claim of the petitioner to disburse the amount on the basis of his claim depending upon the rate quoted by him and by following the communication dated 23.05.2017.

13. In view thereof, this writ petition is disposed of directing the competent authority to consider the claim of the petitioner while taking into consideration the letter dated 03.05.2017 and disburse the amount within a period of eight weeks from the date of receipt of copy of this order.

14. This writ petition is accordingly disposed of.