

(2015) 12 PAT CK 0001

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 9710 of 2015

Ghurghat PACS and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-12-2015

Acts Referred:

Citation : (2015) 12 PAT CK 0001

Hon'ble Judges : Jyoti Saran, J.

Bench : Single Bench

Advocate : M.N. Parbat, Sr. Advocate and Sanjay Kumar Jha, for the Appellant;
Kumar Alok, SC-8, for the Respondent

Final Decision : Allowed

Judgement

Jyoti Saran, J.—Heard Mr. M.N. Parbat, learned senior counsel appearing on behalf of the petitioner, Mr. Kumar Alok, learned Standing Counsel No. 8 for the State, Mr. S.D. Sanjay & Mr. A.B. Mathur learned counsel appearing for the Union of India and Mr. Shailendra Kumar Singh, learned counsel appearing for the Bihar State Food and Civil Supplies Corporation.

2. Whereas petitioner Nos. 1, 4, 7, and 10 are different Primary Agricultural Credit Cooperative Societies (hereinafter referred to as "the PACS") registered under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as "the Act") and "the Rules" framed thereunder, the other petitioners are office bearers of the respective societies. The four societies involved in the present context are the Ghurghat PACS who is petitioner No. 1, Mohammadpur PACS who is petitioner No. 4, Baletha PACS who is petitioner No. 7 and Tari PACS who is petitioner No. 10. The writ petition filed by the aforementioned four cooperative societies is in the chain of litigations which have been filed by various cooperative societies being aggrieved by the action of the respondent Corporation in not accepting their balance stock of paddy/custom milled rice (hereinafter referred to as "the CMR").

3. The claim of the petitioner-societies are founded on a policy decision announced by the Government of India in its Ministry of Consumer Affairs, Department of Food and Public Distribution for efficacious disposal of the paddy crops of the farmers produced during the Kharif Marketing Season 2014-15 and which was enforced in the State of Bihar vide circular dated 19.11.2014 of the Chief Secretary. Under the policy decision the societies concerned were required to deliver paddy until 15.4.2015 and "CMR" until 30.6.2015 which was subsequently extended to 31.8.2015 and the Corporation was duty bound to accept such supplies which were supported by the enforcement certificates issued by the Enforcement Officer duly appointed by the District Magistrate of the district concerned. The present case relates to the district of Siwan.

4. The grievance of the petitioner is that they have made valid purchase from its member-farmers and although a portion of the purchase has been accepted by the Corporation but they are not accepting the balance stock and hence this writ petition.

5. The issue so raised by the writ petitioners came up for consideration in a batch of cases arising from CWJC No. 10728 of 2015 (Auraiya Primary Agriculture Credit Cooperative Society v. State of Bihar & Ors.) and CWJC No. 11746 of 2015 (Ameya Primary Agricultural Cooperative Society & Ors. v. State of Bihar & Ors.) and analogous cases which related to the district of East Champaran and Gopalganj respectively and this Court upon consideration of the stipulations present in the policy decisions, the argument advanced on behalf of the petitioners, the Union of India, the State of Bihar and the Corporation concluded that the balance stock of such of the societies which stood supported by the enforcement certificates issued by the Enforcement Officers and the society concerned had approached this Court for redressal of their grievance before the cut-off date fixed under the policy i.e. 31.8.2015, would only be entitled for consideration of their claim. Thus the claim of the societies was considered on the anvil of twin principles, namely:

(a) The balance stock should be supported by the enforcement certificates duly issued by the Enforcement Officer; and

(b) The society concerned should have approached before the cut-off date fixed under the policy i.e. 31.8.2015.

6. It is on the basis of the aforesaid two principles that the claim of the society was tested against the fact finding report prepared under the supervision of the District Magistrate concerned under the orders of this Court.

7. In so far as the present case is concerned, the petitioners have admittedly approached the Court before the cut-off date and thus are entitled for consideration of their grievances. It is in the light of the order passed in the case of Auraiya Primary Agriculture Credit Cooperative Society Ltd. (supra) and Ameya Primary Agricultural Cooperative Societies (supra) that the District Magistrate, Siwan also constituted a team for physical verification of the stocks claimed by

the societies present in the district of Siwan including the present petitioners in the backdrop of the supporting documents and the report so prepared has been placed on record by Mr. Kumar Alok learned S.C. 8 by way of supplementary counter affidavit filed today. The copy of the supplementary counter affidavit was served on the counsel for the petitioner on 27.11.2015 and the averments have not been controverted.

8. I have heard learned counsel for the parties and I have perused the records. Since the claim of the petitioners are based on the information available on record, it is to be seen whether the claim stands supported from the report so submitted by the fact finding team submitted along with the supplementary counter affidavit at Annexure-F series.

(1) The name of petitioner No. 1 i.e. Ghurghat PACS appears at page 17 of the report and although the petitioner No. 1 claims a balance stock of 730 quintals but the fact finding team found only 431 quintals available in the godown of the petitioner No. 1 and which stock also is being objected to by the fact finding team, inter alia, on grounds that payment was not made until 31.3.2015.

(2) The name of petitioner No. 4 i.e. Mohammadpur PACS appears at page No. 18 of the report and the balance stock of 531 quintals so claimed by the petitioner No. 4 was not confirmed by the fact finding team which found the stock NIL in the godown of petitioner No. 4.

(3) The name of petitioner No. 7 i.e. Baletha PACS appears at page 20 of the report and although the petitioner-society claims balance stock of 466 quintals stated to have been deposited with the rice mill but no papers were shown to the fact-finding team by the petitioner No. 7-society during the course of inspection nor there is anything on record to show the deposit of 466 quintals with any rice mill.

(4) The name of petitioner No. 10 i.e. Tari PACS appears at page No. 19 of the report and the balance stock of 1149 quintals of paddy has been confirmed by the fact finding team which was found available in the godown of the petitioner although an objection on the issue of payment has been taken.

9. Having heard learned counsel for the parties and considering the information so available on record vide the fact finding report, since the claim of Mohammadpur PACS who is petitioner No. 4 and Baletha PACS who is petitioner No. 7 herein are not supported by supporting documents as mentioned in the fact finding report nor there is anything on record to contest the position hence the claims of the said two societies are rejected.

10. In so far as the claim of petitioner No. 1 i.e. Ghurghat PACS is concerned although a higher claim has been made by the petitioner-society but considering the fact finding report since only 431 quintals of paddy was found in the stock of the society hence the claim stands modified to 431 quintals.

11. In so far as petitioner No. 10 i.e. Tari PACS is concerned since the balance

stock of 1149 quintals of paddy has been supported in the fact finding report hence the claim is upheld.

12. On the issue of payment what I find is that both these societies have made payment for the purchase and the major portion thereof has been paid before the cut-off date. However, considering that the societies are dependant upon the credit facility given by the Bank for payment to the farmers, in my opinion a belated payment cannot be a ground to reject their claim.

13. In the circumstances discussed and in view of the law laid down by this Court in the case of Auraiya Primary Agriculture Credit Cooperative Society Ltd. (supra) and Ameya Primary Agricultural Cooperative Society (supra) the modified claim of petitioner No. 1-Society and petitioner No. 10-society are allowed and these two petitioners are directed to get the paddy milled in the rice mill and supply the proportionate "CMR" to the Corporation within a fortnight from today and the Corporation as well as the Union of India are directed to accept the same and make payment thereof at the price so found admissible.

14. The writ petition is allowed in part with the direction aforementioned.