

(2018) 08 PAT CK 0063

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.890 of 2017

M/s Azad Agro Agency

APPELLANT

Vs

State Of Bihar & Ors

RESPONDENT

Date of Decision : 31-08-2018

Acts Referred:

Citation : (2018) 08 PAT CK 0063

Hon'ble Judges : NILU AGRAWAL, J

Bench : Single Bench

Advocate : Rajeev Kumar Singh, Raghwanand, Prabhat Kumar

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State. Petitioner seeks a direction for payment of dues of

Rs. 51,75,440/- with interest against Dhaicha seeds supplied to the farmers of different blocks of Nalanda district on the recommendation of the

District Agriculture Officer Respondent No. 7, Nalanda. The petitioner in pursuance to Green Urea Promotion Scheme in the year 2012-13 made

distribution of Dhaicha seeds in pursuance to the letter no. 491 dated 31.01.2012 by the Agriculture Production Commissioner, Bihar, Patna, who had

issued directions to all District Agriculture Officer of the state including Nalanda District which was on 100% subsidy. Having supplied the Dhaicha

seeds, when payments were not made the petitioner represented before the authorities.

Vide letter dated 14.10.2014 as contained in Annexure-7, the District Agriculture Officer after verifying that 1293.86 quintals Dhaicha seeds have

been distributed to the farmers at the rate of Rs. 40/- per kg and also taking into

account the subsidy, found Rs. 51,75,440/- payable to the petitioner and letter in this regard was written to the Director Agriculture, Bihar Patna. The petitioner again represented before the authorities and on the legal notice sent by the petitioner's counsel, District Agriculture Officer vide memo No. 1955 dated 11.11.2016, Annexure-14 stated that a letter has been sent to the Joint Director (Shashya) vide letter no. 184 dated 28.01.2016 and as soon as the allotment will be received, the payments will be made. Having failed to receive any payment, the petitioner has preferred the present writ application.

Learned counsel for the State has filed counter affidavit stating therein that the claim of the petitioner is of the year 2012- 13 and petitioner has approached this Court after four years, hence, the writ application is fit to be dismissed on the ground of delay and laches. So far as the details of the payment to the petitioner is concerned, the matter was processed and it was found that the petitioner had purchased seeds for Rs. 10,6,792/- from outside the State as is evident by letter no. 240 dated 27.02.2017 of the Deputy Commissioner, Commercial Taxes, Bihar Sharif Circle (Annexure-F to the Counter Affidavit). However, no reason has been assigned for keeping the claim pending or refusing to accept the claim of payment to the petitioner.

The District Agriculture Officer on 14.10.2014 after proper verification of disbursement of the Dhaicha seeds to the farmers had recommended for payment of Rs. 51,75,440/- to the petitioner. Thereafter, on 11.11.2016 in reply to the legal notice the District Agriculture Officer, Nalanda has stated that as soon as funds are available, payment will be made. Respondents have now come up with a letter issued by the Commercial Taxes Department showing that seeds of only 10 lakhs and odd has been purchased from outside Bihar. Such pretext for refusing payment of admitted dues at the Commercial Taxes Department showing purchase of only 10 lakhs and odd is no basis for refusing payment.

The Dhaicha seeds purchased by the petitioner and distributed to the farmers have been verified by the District Agriculture Officer, Nalanda in 2014 itself. In 2016, the District Agricultural Officer had only stated that because of non-allotment of fund payment could not be made. Now a new plea of the purchase by the petitioner from outside Bihar as written by the Commercial

Taxes Department is taken that could be no ground for non-release of payment of admitted dues of the petitioner. The respondents are directed to make payment of admitted payments as verified by the District Agriculture Officer vide letter dated 14.10.2014 expeditiously within a period of three months from the date of receipt of a copy of this order. The writ application is allowed.