
(2022) 06 PAT CK 0004

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 18884, 18922, 19045, 20474 Of 2021

Pramod Baitha

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 20-06-2022

Acts Referred:

Citation : (2022) 06 PAT CK 0004

Hon'ble Judges : Ashutosh Kumar, J;Jitendra Kumar, J

Bench : Division Bench

Advocate : Anand Ojha, Ram Kishore Singh, Upendra Pratap Singh

Final Decision : Disposed Of

Judgement

All the writ petitions have been heard together and are being disposed of by this common order.

Heard Mr. Anand Ojha, learned Advocate for the petitioners and Mr. Upendra Pratap Singh for the State.

The writ applicants have challenged the notices issued to them by the Block Development Officer, Dariyapur, Saran asking them to produce the receipt of deposit of the sum of Rs. 1,91,526/-, equivalent to 139.80 quintals of foodgrains under the SGRY scheme (Sampoorna Gramin Rojgar Yojna) in the office of Block Nazir, Dariyapur, Saran within a week, failing which, certificate proceedings would be initiated for recovery of the said amount.

The aforesaid notices have been issued in view of the decision of the three member committee of inquiry headed by Hon'ble Justice Uday Sinha (Retd.) before whom all such cognate matters were placed for a decision as to the responsibility of the stake-holders with respect to storage of the foodgrains which could not be distributed and the liability of the PDS dealers of returning the same, either by way of return of foodgrains or of the quantified amount of such value of foodgrains.

The petitioners are the PDS dealers who were entrusted with certain quantities of rice for the financial years 2001-2002 to 2005-2006, which was meant to be supplied under the "Food for Work" scheme. It was ultimately found that 139.80 quintals of rice was left with each of the writ applicants/PDS dealers which was required to be returned to the Government as it was not distributed amongst the beneficiaries. Such fact came to the notice of the authorities on an audit which was carried out by the State Government of the SGRY schemes. All the writ applicants were found to be in possession of rice which could not be distributed amongst the beneficiaries.

Shortly after it was identified that such quantity of rice was to be returned to the Government, necessary communication was made with the PDS dealers including the writ applicants for the sale of the aforesaid quantity of rice in an open market @ Rs. 1370/- per quintal and deposit the proceeds in a designated account of the Punjab National Bank, running in the name of the Deputy Development Commissioner, failing which the PDS dealers were informed that they shall be saddled with criminal liability and shall also be subjected to certificate proceedings for recovery of the aforesaid amount. They were also made known that for failure to comply with the aforesaid requirement, they might even lose their dealership. Similar letters were issued to the writ applicants in quick succession, but finally, all the matters were referred to the three men committee of inquiry constituted by this Court.

In the batch of cases, the lead case being CWJC No. 5638 of 2011 (Raiful Azam & Ors. vs. The State of Bihar & Ors.), the Bench had found that in order to go to the root of the matter, an inquiry commission was required to be constituted. Consequently the three men inquiry commission as noted above headed by Hon'ble Mr. Justice Uday Sinha, a retired Judge of this Court, Mr. Sanjay Singh, a retired IAS Officer and Mr. Arun Kumar Singh, an officer of Indian Audit and Accounts Service was constituted.

As mandated by this Court, the Commission started functioning from 02.11.2015. The commission of inquiry was also requested to give a district-wise hearing and to afford an opportunity to both the PDS dealers as well as the officials of the State Government, either in person or their authorized counsel, for fixing the responsibility as also liability of the PDS dealers with respect to return of the quantity of foodgrains/rice which could not be utilized under the SGRY scheme.

It is the case of the writ petitioners that they were never noticed by the commission of inquiry and therefore they did not get any opportunity to ventilate their grievances. Their case is that after distributing foodgrains as directed under the scheme, some foodgrains remained undistributed. Despite the writ applicants/PDS dealers representing before the authorities for taking back the aforesaid foodgrains/rice, nothing was done in that regard. The writ applicants had been communicating with the authorities and expressing their difficulty in storing the foodgrains for such a long time. In fact, the authorities were also made known at

relevant times about the decay of the foodgrains because of long storage.

However, since nothing was done in that regard, the entire left over rice got destroyed.

Thus, the writ applicants contend that because of the fault of the Government authorities, they ought not be saddled with the responsibility of returning the quantified amount of the foodgrains so left undistributed but stored in their godowns for a very long time for which also they had to spend money, time and space in the store house.

It further appears from the records that after hearing some of the parties and the Government officials, the commission of inquiry was of the view that the PDS dealers who were entrusted with the foodgrains/rice under the SGRY scheme were required to return the balance foodgrains which were not distributed. The amount was individually quantified and a direction was issued to the District Magistrates of different districts to proceed ahead for recovery of such amount from such dealers.

The learned counsel for the petitioners has submitted that they are not aware about the fact situation of the other PDS dealers who were heard by the commission of inquiry. So far as they are concerned, they did not receive any notice from the commission of inquiry and therefore they could not place their case.

However, Mr. Ojha, learned Advocate has very fairly stated that with the commission of inquiry having submitted his report, he would not ask for the matter to be remanded to the commission of inquiry for a fresh decision in that regard. However, he submits that any superior authority ought to be directed to hear out the contentions of the writ petitioners as to under which circumstances, such foodgrains could not be returned to the authorities and that the quantified amount in lieu of the aforesaid foodgrains be not realized from the writ petitioners as they are not at all at fault. In fact, on an earlier occasion, when the petitioners had approached this Court, this Court had directed the matter to be looked into by the Principal Secretary, Department of Food and Civil Supplies but before the Principal Secretary of the department could advert to the grievances of the writ applicants, the commission of inquiry had already been constituted and therefore all the matters were referred to the commission of inquiry.

But as argued and not rebutted by the State, the writ petitioners were not heard by the Commission of Inquiry.

Under the aforesaid circumstances, this Court deems it appropriate to direct the writ applicants to approach the respective Deputy Development Commissioners of the districts, within a period of two weeks, who would hear out the writ applicants personally or through their authorized representatives and fix the responsibility. In case it is found by the concerned DDCs that the petitioners are not at fault, he shall pass a reasoned order within a period of ten weeks of the

receipt of such applications by the respective writ petitioners. In case it is found that the petitioners are under an obligation to return the quantified amount to the Government, that shall be done promptly.

Since the facts of the case of the writ applicants was not examined by the three member commission of inquiry, the concerned DDCs shall look into the matter dispassionately and shall pass a reasoned order, as noted above, within the time frame so provided.

Till such time, no coercive steps shall be taken against the petitioners.

Needless to state that even the Government authorities shall be heard before passing a final order.

With the aforesaid directions/observations all the writ petitions are disposed off.