
(2011) 10 PAT CK 0013
In the Patna High Court
Case No : CWJC No. 8609 of 2009

Raj Kumar Paswan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-10-2011

Acts Referred:

Citation : (2012) 2 PLJR 6

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Advocate : Ajay Kr. Thakur, Imteyaz Ahmad, Amir Alarm and Ravi Ranjan, for the Appellant;

Judgement

Sheema Ali Khan, J.—Heard counsel for the petitioner and the State. The petitioner is aggrieved by a notice issued by the Deputy Development Commissioner, Begusarai vide memo no. 452 dated 30.3.2009 in which it has been stated that the rice received under the order 1 and 2 in the year 2007-08 should be sold at the Above Poverty Line (APL) rate and the money so received should be deposited with the D.D.C.

2. The background of this case is that the Central Government had introduced a scheme known as EKIKRIT SAMPURNA GRAMIN ROJGAR YOJANA for the financial year 2002-03 to 2007-08. In the year 2007-08, the petitioner who is a Public Distribution System Dealer was directed to lift rice (ARWA) from the State Food and Civil Supplies Corporation, Begusarai so that the same can be distributed by the State Officials in lieu of work performed under the aforesaid scheme on the basis of payment, half through grains and half by cash. For one reason or the other, the schemes could not be executed and as such, the food grains remained in the shops of the Public Distribution System Dealers including this petitioner. In the year 2009-10, an audit was performed and it was discovered that there was no account of utilization of large stock of rice which was lying in the godowns of various Public Distribution System Dealers for distribution.

3. Considering this aspect of the matter, it appears to this Court that in order to save their skins, the Deputy Development Commissioner, Begusarai or the other authorities of the State Government, Incharge of the said schemes have directed the Public Distribution System Dealers to sell the stock. Judicial notice can be taken of the fact that any food grain kept in the godown for more than a year or so without proper facilities must be found in a very bad condition, if not completely destroyed. It is a shame that the State Authorities allowed this to happen. Now, by the impugned Annexure-1, they have issued a letter that this stale bad stock of rice should be sold and the money so received should be deposited with the D.D.C. This Court does not find that it is a very fair stand on behalf of the State Authorities concerned.

4. It may be noted here that this Court in several cases has observed that the dealers under the Public Distribution System were required to produce documents to show the rice distributed by them. I may point out here that the responsibility of distributing rice was not of the Public Distribution System Dealers rather it was by the authorities of the State Government. The records of the distribution and the schemes would be with the State Government rather with the dealers. The dealers would have only the account of amount of rice supplied by them to the concerned State authorities or supplied through them on appropriate orders of the State Authorities. After all, the petitioner was only keeping the stock of rice in his shop. The petitioner could not have sold the rice or utilized it in any manner. The Public Distribution System Dealers in the village or block level have small shops and have hardly the means and infrastructure to prevent the food grains from rotting, especially Arwa rice which is "sensitive and begins to rot after eight months to one year. In these circumstances, they cannot be made to shoulder the blame for the (in) action of the State Authorities.

5. In the circumstances aforesaid, I do not think it proper to remand this matter back to the District Authorities, rather it must be referred to a higher authority, who would be able to consider the audit report, the role of the District Authorities and the very limited role of the Public Distribution System Dealers, who were merely required to keep the stock with them for distribution by the District Level Authorities. As such, this matter is referred to the Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna who may pass appropriate orders in this. case.

6. I may also observe that even if it is presumed that rice can be sold, it would be impossible to sell the quantity of rice which must have been decomposed by virtue of passage of time at the APL rate. Perhaps, the Secretary may consider retrieving the rice in whatever condition it is from the Public Distribution System Dealers and deal with it accordingly instead of asking the dealers to sell the decomposed rice at the APL rate. This writ application is disposed of with the aforesaid observations and directions.