
(2015) 12 PAT CK 0067

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11918 of 2015

Rup Narayan Sah and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-12-2015

Acts Referred:

Citation : (2015) 12 PAT CK 0067

Hon'ble Judges : Jyoti Saran, J.

Bench : Single Bench

Advocate : Ramchandra Singh, for the Appellant; Ashok Kumar Keshri, AAG-11, for the Respondent

Final Decision : Allowed

Judgement

Jyoti Saran, J.—The eight petitioners herein are Chairman of different cooperative societies registered under the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as "the Act") situated in the district of Kaimur. The grievance of the petitioners is common and i.e. regarding non-lifting of the paddy/custom milled rice (hereinafter referred to as "the CMR") by the Corporation which they have purchased during the year 2014-15 from their respective member-farmers.

2. The reliefs claimed by the petitioners are founded on a policy decision of the Government of India which was to be enforced under a circular dated 19.11.2014 of the Chief Secretary with a cut-off date for supply of paddy as 15.4.2015 and for the supply of "the CMR" as 30.6.2015 which was subsequently extended to 31.8.2015.

3. A number of cooperative societies facing difficulty in disposing of their respective stocks moved this Court and the matter was considered in a batch of writ petitions arising from CWJC No. 10728 of 2015 (Auraiya Primary Agriculture Credit Cooperative Society Ltd. v. The State of Bihar) which was relatable to the societies situated in the district of East Champaran and CWJC No. 11746 of 2015

(Ameya Primary Agricultural Cooperative Societies v. The State of Bihar) relatable to the societies situated in the district of Gopalganj. This Court in consideration of the contentions advanced on behalf of the policy maker i.e. the Government of India, the enforcing agency, i.e. the State of Bihar and the executive agency i.e. the Bihar State Food and Civil Supply Corporation and taking into consideration the cutoff date so fixed under the policy decision for supply of paddy and "the CMR" as indicated above, allowed the writ petitions of such of the societies whose balance stock was supported by the enforcement certificates issued by the Enforcement Officer duly appointed by the District Magistrate and the society concerned had approached this Court praying for the disposal of the balance stock within the cut-off date fixed by the Government of India i.e. 31.8.2015. Such of the societies whose balance stock was either not supported with enforcement certificates and/or had not approached the Court before the cut-off date, were not found entitled to the relief prayed.

4. The broad principles which have been settled by this Court in the batch of writ petitions so discussed above are that the societies complaining against non-lifting of the balance stock by the Corporation should have their stock supported by the enforcement certificates and the said societies should have approached this Court within the cut-off date fixed by the Government of India under the policy decision in question, i.e. before 31.8.2015. In the present case the petitioners have approached this Court for the reliefs prayed, before the cut-off date and thus they are entitled to the consideration of their prayer. The petitioners having crossed the first hurdle it is now to be seen whether their balance stock is supported by the enforcement certificates.

5. This Court in consideration of the nature of dispute, had vide order passed on 28.8.2015 directed the District Magistrate to get a fresh inspection/physical verification of the stocks held by the Primary Agriculture Credit Cooperative Societies (hereinafter referred to as "the PACS") operational within his district under a leadership of an officer not below the rank of Additional Collector. The team was required to furnish its report on the following issues:

"(a) The procurement target of paddy fixed for the respective society by the Cooperative Department for the Kharif Season 2014-15.

(b) The total purchase of paddy made by the respective PACS from its members as on 31.3.2015 and the papers to support such purchase.

(c) The number and date of the enforcement certificate supporting the purchase made by the respective PACS issued by the Circle Officer concerned, if available.

(d) The quantum of paddy delivered by the respective PACS to the Bihar State Food and Civil Supplies Corporation Ltd.

(e) The quantum of paddy sent to the rice mill for converting it to custom milled rice for the paddy season 2014-15; and

(f) The stock of paddy/custom milled rice presently available with the respective

PACS."

6. It was also directed that the report so prepared by the District Magistrate should be countersigned by the Chairman of the society concerned or any member of the Managing Committee of the society concerned duly authorised by the Chairman. It is following the order passed by this Court referred to above that a report has been filed through the District Cooperative Officer by way of a supplementary counter affidavit on 7.9.2015. The physical verification exercise having been completed under the supervision of the District Magistrate, Kaimur it is to be seen whether the claim of the respective petitioners stands supported by the enforcement certificates vis-?-vis report placed on record by way of supplementary counter affidavit.

"(1) Petitioner No. 1 is the Chairman of Dhandhar PACS and complains against non-lifting of 1625 quintals of paddy deposited in the Somnath Rice Mill, Kulhariya Centre on 24.3.2015.

The report regarding petitioner No. 1 is available at running page 138 of the brief and stands supported. The report supports purchase of 4562 quintals of paddy of which 2937 quintals has been supplied to the Corporation leaving a balance of 1625 quintals lying with the rice mill for conversion of "CMR".

(2) Petitioner No. 2 is the Chairman of Karnpura PACS and complains against non-receipt of 1000 quintals of paddy which has been deposited with the Somnath Rice Mill for its conversion in "the CMR".

The report as regarding the petitioner No. 2 is present at running page 136 of the brief and the complaint is supported by the fact finding enquiry team who reports that of the 1991 quintals of paddy purchased by the petitioner 991 quintals has been supplied and 1000 quintals of paddy is lying with the mill for conversion as "CMR".

(3) The petitioner No. 3 is the Chairman of Kalyanpur PACS and complains non-receipt of 1033 quintals of paddy deposited in Somnath Rice Mill on 28.3.2015.

The report on the petitioner No. 3 finds mentioned at running page 135 of the brief and it is reported that of the 3069 quintals of paddy purchased by the petitioner 2036 quintals of paddy was supplied to the Corporation and 1033 quintals of paddy has been deposited with the miller for conversion as "CMR". Although the fact finding team has mentioned that the paddy supplied by a number of PACS has been mixed up but so long as the deposit made by the petitioner stands supported, the mixing of paddy with others would not have any bearing to the relief claimed.

(4) The petitioner No. 4 is the Chairman of Khamidaura PACS and has complained against non-acceptance of 2000 quintals of the paddy deposited with the Durgawati Rice Mill, Dhanaitha.

The name of petitioner No. 4 appears at running page 133 of the brief and

supports the balance stock of 2000 quintals of paddy with the petitioner-society.

(5) The petitioner No. 5 is the Chairman of Awahiya PACS and complains of non-receipt of 1330 quintals of paddy deposited with the Ma Mundeshwari Enterprises for "CMR".

The name of petitioner No. 5 appears at running page 134 of the brief and stands supported by the fact finding enquiry team who reports that of the 2330 quintals of paddy purchased by the society, 1000 quintals has been supplied to the Corporation and the balance of 1330 quintals has been deposited with the miller for conversion as "CMR".

(6) The petitioner No. 6 is the Chairman of Khajura PACS and is aggrieved by non-receipt of 6867 quintals of paddy deposited with Somnath Rice Mill.

The details of Khajura PACS appear at running page 130 of the brief and the entire balance stock claimed by the petitioner is not supported rather it is mentioned that of the 7689 quintals of paddy purchased by the society, 3098 quintals was supplied to the Corporation and the balance 4591 quintals is lying with the rice mill. Thus the claim of the petitioner No. 6 would stand modified to the report given by the enquiry team.

(7) The petitioner No. 7 is the Chairman of Miriya PACS and prays for delivery of 3475 quintals of paddy deposited with the Ranjan Rice Mill for conversion as "the CMR".

The details of Miriya PACS appears at running page 104 of the brief and supports the claim. It is mentioned that of the 688.20 MT of paddy purchased by the petitioner-society which is equal to 6882 quintals, 179.50 MT which is equal to 1795 quintals of paddy and 161.20 MT of "CMR" which is equal to 1612 quintals was supplied to the Corporation. The report supports that a balance of 347.50 MT which is equal to 3475 quintals of paddy deposited with the miller for conversion as "CMR".

(8) The petitioner No. 8 is the Chairman of Kaithi PACS and complains against the non-receipt of 2424 quintals of paddy deposited with Ma Mundeshwari Rice Mill."

7. The details regarding the Kaithi PACS appear at the running page 94 of the brief and shows that of the 901.87 MT of paddy purchased which is equal to 9018.7 quintals the petitioner No. 8 has supplied 620.62 MT of paddy which is equal to 6266.2 quintals and 104.52 MT of "CMR" which is equal to 1045.2 quintals has been supplied to the Corporation. The fact finding enquiry team reports a balance of 281.25 MT of paddy available in the stock of the Society which is equal to 2812.5 quintals as against the balance of 2424 quintals claimed by the petitioner. Surprisingly the report supports a higher claim.

8. Having heard learned counsel for the parties and on the principles so laid down by this Court in the case of Auraiya Primary Agriculture Credit Cooperative

Society Ltd. (supra) arising from CWJC No. 10728 of 2015 and analogous cases, the claim of the petitioners having been upheld in the fact finding report prepared under the supervision of the District Magistrate, the State Food Corporation and the Union of India in its Ministry of Consumer Affairs are duty bound to accept the balance paddy/"CMR" so available in the stock of the writ petitioners, the individual details of whom I have already discussed hereinabove and they shall also ensure payment of the price as found admissible.

9. In so far as petitioner Nos. 1 to 6 are concerned since the balance stock has been deposited with the rice mill for conversion as "CMR", the proportionate "CMR" resulting from the milling of the paddy so deposited with the rice mill should be supplied by the respective petitioners within a fortnight from today. I would clarify here that the claim of the petitioner No. 6 shall stand modified to the quantity reported by the fact finding team in their report.

10. In so far as the petitioner Nos. 7 and 8 are concerned what I notice is that although the stock purchase is supported by the enforcement certificates and a portion thereof has been supplied in paddy form as well as in "CMR" form to the Corporation but the report prepared does not take care of the "CMR" supplied by these petitioners while working out their balance stock. What I find is that the team has mechanically reduced the paddy supplied by these petitioners from their paddy purchase without taking note of the paddy utilized by these petitioners in conversion to "CMR" supplied by them during this period which is to the tune of 1612 quintals and 1045.2 quintals respectively. The team has not taken into consideration the stock of paddy supplied in "CMR" form by the petitioner Nos. 7 and 8 and which paddy stock would have to be taken into consideration and reduced while calculating the balance stock deposited with the rice mill. It is only thereafter that the actual balance stock of paddy available for conversion as "CMR" with these petitioners can be worked out. The Corporation would work out the proportionate "CMR" resulting from such balance stock of these petitioners and likewise the petitioner Nos. 7 and 8 would also ensure the supply of "CMR" within a fortnight from today.

11. The writ petition is allowed with the directions aforementioned.