

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2078 OF 2013.

Rice Milleers Association District Gondia and ors.

..VS..

Union of India through its Secretary and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.R.L.Khapre, Advocate for the petitioners.
Mrs.Mughda Chandurkar, AGP for resp.no.1.
Mr.A.M.Gordey, Senior Advocate with Mr.C.S.
Samudra, Adv. for respondent nos.2 to 5.
Ms.Preeti Rane, AGP for respondent no.6.
Mrs.Neeta Jog, Advocate for respondent no.7.
Mr.P.D.Meghe, Advocate for respondent no.8.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : APRIL 27, 2016.

On 12th of April, 2016, we have passed following order.

*“We have heard Adv.Khapre for
petiteness, Senior Adv.Gordey with Adv. Samudra
for respondent nos.2 to 5, Ms.Rane, learned
Assistant Government Pleader for respondent
no.6, Adv. Jog for respondent no.7 and Adv.
Meghe for respondent no.8 for sometime.
Nobody appears for respondent no.1 Union of
India.*

*The learned Assistant Government
Pleader submits that she is still awaiting*

instructions.

Adv. Khapre for petitioners, in this situation, submits that rate of transportation arrived at and published by State Government and used till 2007-08 should be applied to subsequent transport and petitioners should at least be paid at that rate as an interim arrangement.

Sr.Adv.Gordey submits that Tariff commission functioning under Ministry of respondent no.1, which is to determine the rate of transportation, has already arrived at some rate and forwarded it to respondent no.1. The respondent no.1 has to take final decision on it. He further submits that after respondent no.1 takes a decision, that decision can be implemented by the Food Corporation of India as also by State Government.

The matter is pending for admission since 2013. Adv. Khapre submits that matter was being kept at end of board to see that it is finally decided.

In this situation, before proceeding further, we grant respondent no.1 an opportunity to appear and contest. Earlier, Adv. S.K.Mishra used to represent respondent no.1.

The petitioners to communicate this order of Standing Counsel, who represents Union of India at Nagpur.

*Place for further consideration on
20/4/2016 with connected matters.”*

Advocate Mrs.Chandurkar appearing for respondent no. 1 states that after receipt of the recommendations from respondent no.9 - Tariff Commission of India as respondent no.1 found it incomplete, the same are returned back to respondent no.9 for further evaluation. The report from respondent no.9 thereafter is still awaited.

Advocate Shri Khapre in this background insisted for grant of interim orders. He contends that the petitioners are undertaking milling operation and the rates paid to them include transport charges. No payment has been made towards transport charges for years 2008-2009 and 2009-2010. According to him, till the issue of transport charges is decided between respondent no.1 and respondent no.6, at least the charges at old rate can be made over to petitioners so as to enable them to carry on their business.

Senior Advocate Shri Gordey with Adv. Shri Samudra appearing for respondent nos.2 to 5 submits that the rates are decided by State Government and petitioners also submitted their bills to the State Government. At pre-decided rates in the bills are cleared by State Government and amount is demanded by State thereafter from Food Corporation of India. He points out that claim of petitioners that they have not been paid for the year 2009-2010, in prayer 8, is incorrect. He submits that several bills are found incomplete i.e. deficient and petitioners have to remove the lacunae, thereafter only the bills can be processed further.

We do not wish to go into these niceties in challenge of present nature. The learned Assistant Government Pleader appearing for respondent no.6 has submitted that her instructions are still awaited.

We find that petitioners are admittedly entitled to transportation charges if they have not already received it. Hence, only question is about the

rate at which they should be paid. Till the rate is determined by following prescribed procedure, there should be no problem in paying such of the petitioners who have not been paid the said charges at the old rate. The relief claimed in prayer 8 is therefore granted only to that extent.

However, petitioners who desire to take advantage of the order shall submit an undertaking to respondent no.5 that in case rate finally worked out is found to be lower than the rate for year 2008-2009, they shall return the extra amount received by them within four weeks of the demand in that respect raised by respondent no.5.

If such an undertaking is filed, the claims/bills of such petitioners for the period mentioned in prayer 8 shall be looked into and if bills are found complete in all respect, payment due to them at the rate prevalent in 2007-2008 shall be released to them.

This payment shall be without prejudice to rival contentions of parties in the matter and also subject to undertaking furnished by petitioners mentioned supra.

We place the Writ Petitions for further consideration on 30th of June, 2016.

Steno copy of this order be furnished to the parties.

JUDGE

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