

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**Civil Review No. 24 of 2015**

**(Shri Bajrang Rice & Flour Mills Vs. Union of India & Ors.)**

With

Civil Review No. 12 of 2015

(Sidhi Vinayak Food Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 13 of 2015

(Hemkunt Rice Mills Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 14 of 2015

(Bhagwati Vintrade Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 15 of 2015

(Shri Ganesh Rice Mill Vs. Union of India & Ors.)

With

Civil Review No. 16 of 2015

(Prateek Agro Experts Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 17 of 2015

(Shiv Shambhu Agrotech Private Vs. Union of India & Ors.)

With

Civil Review No. 18 of 2015

(Sunrise Cereals Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 19 of 2015

(Shree Ganesh Rice Mill Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 20 of 2015

(Aadhar Rice Mill Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 21 of 2015

(Samriddhi Rice Mill Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 22 of 2015

(Choudhary Rice Mill Vs. Union of India & Ors.)

With

Civil Review No. 23 of 2015

(Shri Bhagwati Rice & Flour Mill Vs. Union of India & Ors.)

With

Civil Review No. 25 of 2015

(Chandrawati Rice Mills Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 26 of 2015

(Kunj Bihari Food Processors Pvt. Ltd. Vs. Union of India & Ors.)

With

Civil Review No. 27 of 2015

(Rashmi Rice Mill Vs. Union of India & Ors.)

With

Civil Review No. 28 of 2015

(Bajla Food Products Pvt. Ltd. Vs. State of Jharkhand & Ors.)

With

Civil Review No. 29 of 2015  
 (Shiva Rice Mill Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 30 of 2015  
 (K.S.Industries Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 31 of 2015  
 (Madan Rice & Oil Mills Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 32 of 2015  
 (Shree Niranjana Rice Mill Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 33 of 2015  
 (P.D.R.D. Rice Mills Pvt. Ltd. Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 34 of 2015  
 (Deoghar Food Pvt. Ltd. Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 35 of 2015  
 (Baidyanath Real Food Pvt. Ltd. Vs. State of Jharkhand & Ors.)  
 With  
 Civil Review No. 40 of 2015  
 (Assay Ceramics & Chemicals Pvt. Ltd. Vs. State of Jharkhand & Ors.)

----

**CORAM: HON'BLE MR.JUSTICE VIRENDER SINGH, CHIEF JUSTICE  
 HON'BLE MR.JUSTICE PRAMATH PATNAIK**

-----

|                               |   |                                                                                                                                    |
|-------------------------------|---|------------------------------------------------------------------------------------------------------------------------------------|
| <b>For the Petitioners</b>    | : | Mr. Indrajit Sinha, Advocate<br>Mr. Sumeet Gadodia, Advocate<br>Mr. Nitin Kumar Pasari, Advocate                                   |
| <b>For the Union of India</b> | : | Mr. Rajiv Sinha, ASGI                                                                                                              |
| <b>For the State</b>          | : | M/s. Jai Prakash, AAG,<br>Mrs. Debolina Sen Hirani, J.C. to A.A.G.<br>M/s. K.M.Verma, G.P.-I,<br>Shadab Bin Haque, J.C. to G.P.-I. |
| <b>For J.S.F.C.</b>           | : | Mr. Mrinal Kanti Roy, Advocate                                                                                                     |

-----

**6/Dated 8<sup>th</sup> May, 2015**

**Per Virender Singh, C.J.**

The present 25 review petitions have been filed after some of the appellants/writ petitioners (rice millers) knocked at the door of the Hon'ble Supreme Court vide S.L.P. Nos. 2144-2156/2015 & S.L.P. Nos.2378-2388/2015 impugning the order dated 6<sup>th</sup> of January, 2015 passed by L.P.A. Bench, whereby they were directed

to deposit the entire amount of paddy supplied to them @ Rs. 1250/- per quintal within a stipulated period, leaving the entire matter with regard to delay, if any, caused by the writ petitioners in milling of the paddy into Custom Milled Rice (CMR) or there being any fault at the end of the State or its concerned agencies, to be adjudicated upon by Jharkhand State Legal Services Authorities, Ranchi (for short 'JHALSA') as the writ petitioners had consented for the same, the reason being that the ancillary matter relating to market fee, handling charges, transportation etc. was already referred to JHALSA by the learned Writ Court.

2. Hon'ble Supreme Court, however, dismissed the Special Leave Petition filed by the writ petitioners vide order dated 30.01.2015 but with regard to the jurisdiction of the Lok Adalat, liberty was granted to them to file review petition before this Court. However, no interim protection was granted by the Supreme Court.

3. Mr. Sinha and Mr. Gadodia, appearing for the writ petitioners, at the very outset, submitted that most of the rice millers have already cleared their liability of payment of minimum support price of paddy (Rs.1250/- per quintal) and if any of the rice miller has still not cleared his dues, he will be facing the consequences in terms of the order dated 3<sup>rd</sup> of December, 2014 issued by the Secretary, Department of Food, Civil Supplies and Consumer Affairs (Government of Jharkhand) in which even criminal case can be registered against any individual rice miller.

4. Learned counsel submitted that the Court while deciding the main 7 LPAs (L.P.A. No.397 of 2014 and 6 others) has

categorically held that slapping the rice millers with the liability of making payment of Rs.1250/- per quintal straightway for the paddy lying with them would tantamount to deciding the issue without there being any adjudication upon it which would be improper and unjust. Learned counsel submitted that the State or even Jharkhand State Food and Civil Supplies Corporation have not assailed the order of this Court dated 6<sup>th</sup> of January, 2015, therefore, the entire matter, undoubtedly requires adjudication. Learned counsel submitted that the rice millers had assailed the order of this Court, primarily for the reason that they were facing financial crunch and were not in a position to deposit the entire minimum support price for the paddy lying with them and not being aggrieved of the observation made by the Court vis-à-vis the adjudication part of the entire matter on facts as the case of the writ petitioners throughout was that it is either the fault of the State or the FCI which had not lifted the CMR, therefore, no liability could be fastened upon them for making the entire payment of the minimum support price for the paddy supplied to them as the paddy lying with them by efflux of time has lost its market value considerably. Learned counsel fairly submitted that since on consent of the counsel of the writ petitioners, the learned Writ Court had initially given permission to the writ petitioners to approach JHALSA so that the matter could be referred to Lok Adalat for its settlement with regard to the incidental charges amounting to about Rs.50/- per quintal and that in the Letters Patent Appeal also, the consent was accorded for adjudication of the entire matter by JHALSA, may be for the reason that instead of

adjudication by Managing Director, Jharkhand State Food and Civil Supplies Corporation in terms of Clause 7 of the agreement, the writ petitioners, in their wisdom, thought that adjudication by JHALSA would be proper and just. Learned counsel submitted that it is how after recording the consent of learned counsel for the writ petitioners, the Court while deciding the LPAs, referred the entire matter for adjudication to JHALSA.

5. Learned counsel submitted that in fact proper assistance could not be rendered to the Court either at the time of hearing of the main writ petition before the learned Single Judge or during the Letters Patent Appeal so far as issue of adjudication by Lok Adalat through JHALSA is concerned as the Lok Adalat has no adjudicatory or judicial functions and its functions relate purely to conciliation which must be based on compromise or settlement between the parties. Learned counsel submitted that for this reason when the matter was taken up by Hon'ble Supreme Court, the writ petitioners were granted the liberty to file review petition before this Court about the jurisdiction of the Lok Adalat. In support of their submissions, learned counsel have relied upon a decision of Hon'ble Supreme Court handed down by three Judges Bench in case titled ***State of Punjab and Another v. Jalour Singh and Another*** reported in ***(2008) 2 SCC 660***.

6. Learned counsel submitted that since JHALSA does not have any power under Jharkhand State Legal Services Authority Rules, 2001 or under Jharkhand Legal Services Authority Regulation, 2002 to adjudicate the dispute between the parties and

the reference of the dispute by JHALSA to Lok Adalat would be contrary to the provisions of the Legal Services Authority Act, 1987 and when the entire dispute between the parties, admittedly requires to be adjudicated upon, the writ petitioners pray that instead of referring the matter to Managing Director, Jharkhand State Food and Civil Supplies Corporation in terms of Clause 7 of the agreement, it may be referred to **“One Man Fact Finding Commission”** of some former Hon’ble Judge of this Court or any Court for which the writ petitioners are ready to bear all the expenses of each sitting of the Hon’ble Judge at Ranchi. Learned counsel submitted that a proposed term of reference which is acceptable to both the sides can also be incorporated while referring the matter to **“One Man Fact Finding Commission”** to adjudicate upon the dispute within some fixed time frame.

7. Considering that the entire dispute, in any case, has to be adjudicated upon in terms of the order passed by this Court in the aforesaid 7 LPAs and thereafter also on the same lines in another 18 LPAs (in all 25 LPAs), we find substance in the proposal put forth by learned counsel for the writ petitioners.

8. Learned counsel for both the sides are agreeable for adjudication of the dispute between the parties by Hon’ble Mr. Justice Permod Kohli, Former Judge, High Court of Jharkhand, since retired as Chief Justice of Sikkim High Court as **“One Man Fact Finding Commission”** to adjudicate upon the dispute on the following proposed terms of reference :-

- (i) **Whether the paddy was made available to the rice millers by the LAMPS/PACCS for milling the same on time?**
- (ii) **Whether after receipt of paddy, the rice millers had produced CMR within stipulated/reasonable time?**
- (iii) **Whether after milling was done by the petitioners, the fault for not sending/lifting the CMR to the FCI lies with the rice millers or Co-operative Societies?**
- (iv) **Whether slapping the rice millers with the liability of making payment of Rs.1250/- Per Quintal for the paddy/CMR lying with them was justified?**
- (v) **Whether the rice millers can be made to suffer/held liable to pay an additional sum of Rs.48.50 towards Market Fee, Handling Charges etc.?**
- (vi) **Whether the rice millers are entitled to receive the charges and expenses for milling, storage, transportation of the rice as payable to them?**
- (vii) **Whether the rice millers are entitled for refund of the amount paid by them pursuant to the orders of this Hon'ble Court and if yes, to what extent?**
- (viii) **Any other issue to be taken with the consent of both the parties.**

9. We, thus, appoint **Hon'ble Mr. Justice Permod Kohli** (former Judge, High Court of Jharkhand and retired as Chief Justice of Sikkim High Court) as **"One Man Fact Finding Commission"** to adjudicate upon the aforesaid proposed terms of reference arisen between the parties in which both the sides would put forth their case with all the details and the basis of making claim.

10. The Commission shall also have the power to :-

- (i) **decide its own procedure for dealing with applications and other issues;**
- (ii) **call for any documents from any person or the Government of the Union or the State or any other official;**

- (iii) **summon any person and receive evidence from such person on oath either on affidavit or otherwise;**
- (iv) **seek assistance/presence of any person(s)/official(s) required by it in relation to its work.**

11. The expenses of **each sitting** of the Commission, as agreed, shall be Rs. 3 lakh in all. It is made clear that cost of per sitting shall be borne by 25 review petitioners in the equal share of **Rs.12,000/- each**. It is also agreed that place of hearing, staff, conveyance, accommodation etc. shall be provided by Jharkhand State Food and Civil Supplies Corporation.

12. The Commission is requested to enter into adjudication expeditiously, preferably within this month only so that the entire matter is adjudicated upon within two months' time, if not inconvenient to the Commission.

13. Report of the Commission shall form part of the instant review petitions and either side will be at liberty to object or enforce the report of the Commission in accordance with law.

14. All the 25 review petitions, on board, thus, stand disposed of accordingly.

***(Virender Singh, C.J.)***

***(Pramath Patnaik, J.)***