

U.P. ROLLER FLOUR MILLS ASSOCIATION AND ORS. A

v.

GOVT. OF INDIA AND ORS.

OCTOBER 5, 2007

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.] B

Constitution of India, 1950—Article 32—Allocation of subsidized wheat stocks by Government of India through Public Distribution System—State of West Bengal and Assam diverting the same to open market on subsidized rates instead of intended beneficiaries, causing loss of several crores—Writ Petition before Supreme Court—Held: Directions issued to the concerned Associations/Gram Panchayats/Local bodies to assess the need of wheat/atta for the intended beneficiaries which would be conveyed to the State Government who would then supply it to the Fair Price Shop to be finally supplied to the consumer. C D

The instant writ petition has been filed to highlight that the State of West Bengal and North-East States are diverting highly subsidized wheat stocks supplied by the Central Government for distribution through Public Distribution System under several schemes, to rolling flour mills of different States depriving the needy consumers and the intended beneficiaries and causing loss of several crores to the public exchequer. E F

Different states refuted the allegations. However, the Government of Assam was directed to work out the modalities to ensure that the beneficiaries are not affected. The Government of Assam found that the beneficiaries were not interested in taking the whole grain and instead wanted Atta and wanted continuation of milling Above Poverty Line into wholemill Atta for distribution through PDS. G

Disposing of the writ petition, the Court

A HELD: Considering the intention behind the programme, the following modalities are directed to be adopted:

B (1) The concerned Associations/Gram Panchayats/Local bodies shall assess the need of wheat for the intended beneficiaries. The need shall be indicated to the State Government.

C (2) They shall indicate the quantum of wheat which is to be converted into Atta to be given to the beneficiaries on the basis of their option. On the basis of such intimation, Associations/Gram Panchayats/Local bodies shall convey the requirement to the State Government.

D (3) The quantity indicated for conversion into Atta shall be given to the Mills, who after converting wheat into Atta, shall supply it to the Fair Price Shop so that the intended beneficiaries can get them from the FPS at rates fixed by the concerned Governments.

E (4) The State Governments shall ensure that the actual requirement is being projected by the Associations/Gram Panchayats/Local bodies and similarly whether after milling the supply is made to the FPS to be supplied finally to the consumer.

F (5) The State Governments shall quarterly submit the necessary data for the information of the Central Government who shall also ensure that all possible steps are being taken by the State Governments to fulfil the intended objectives. [Para 7] [572-F, G; 573-A, B, C, D]

F CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. 274 of 2005.

(Under Article 32 of the Constitution of India).

Dinesh Kumar Garg and V.K. Biju for the Petitioners.

G M.L. Lahoty, Paban K. Sharma and Himanshu Shekhar for the Applicant.

H C.A. Sundaram, Riku Sharma, (for M/s. Corporate Law Group), Tara Chandra Sharma, Neelam Sharma, Rajeev Sharma, Kishan Datta, G. Prakash, Sunil Roy, R.C. Kathia and V.K. Verma for the Respondents.

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The Judgment of the Court was delivered by

A

DR. ARIJIT PASAYAT, J. 1. In this petition under Article 32 of the Constitution of India, 1950 (in short the 'Constitution') the petitioners have highlighted that there has been alarming increase in diversion of food stocks meant to be supplied under the Public Distribution System (in short 'PDS'). It is stated that highly subsidized wheat stocks supplied by the Central Government for distribution through PDS under several schemes are being diverted to rolling flour mills of different States. These stocks have been procured by the Central Government from Food Corporation of India (in short 'FCI'). Special reference has been made to the State of West Bengal and North-East States. It is alleged that instead of supplying them to the needy consumers and the intended beneficiaries they are being diverted to the open market. Several statistical data have been furnished. The States of Assam and West Bengal have filed counter affidavits and have denied the allegations and have submitted that all possible measures have been adopted to ensure that the foodgrains reach the intended beneficiaries. B C D

2. Learned counsel for the petitioners have referred to some newspaper reports indicating that foodgrains worth more than rupees thirty one thousand crores have been siphoned off from public distribution system. E

3. These allegations have been refuted by the learned counsel for the different States. It is to be noted that the Government of India, Ministry of Food and Consumer Affairs, Department of Food and Civil Supplies, by letter dated 13th December, 1997 brought to the notice of the Food Secretaries of all State Governments and Union Territories Administration that the scheme of custom milling was extended for a period of one year upto 31.10.1997 on the express conditions stipulated by letter dated 4th November, 1996. It was stated that the scheme was further reviewed and it was decided not to extend it further. The scheme of custom milling of PDS wheat stood withdrawn/discontinued. F G

4. The Government of Assam, it is urged by learned counsel for the State, took follow up action on the basis of the aforesaid letter. A writ H

A petition was filed before the Gauhati High Court questioning the action taken by the Assam Government in terms of aforesaid letter of the Government of India. The impugned annexures were quashed by a learned Single Judge. The matter was carried in writ appeals before the Division Bench which set aside the orders of the learned Single Judge. However, direction was given to work out the modalities to ensure that the beneficiaries are not affected.

5. It appears that the Government of Assam found that the beneficiaries were not interested in taking the whole grain and instead wanted Atta. This aspect was also examined by the Central Government. It was noted that the workers in the tea gardens had shown reluctance to take whole grain and instead preferred Atta. The Government of India also took note of the request of the Assam Government for continuation of milling Above Poverty Line (in short 'APL') into wholmill Atta for distribution through PDS. It was suggested by learned counsel for the Government of Assam that the distribution can be made through Gram Panchayats who in turn can get the wheat converted into Atta for supply to the beneficiaries.

6. Learned counsel for the petitioners on the other hand submitted that it would not be desirable to adopt such a course as there is possibility of manipulations and lack of accountability. It is undisputed that the distribution under the PDS is done through the Fair Price Shops (in short 'FPS').

7. Considering the intention behind the programme, we direct following modalities to be adopted:

(1) The concerned Associations/Gram Panchayats/Local bodies shall assess the need of wheat for the intended beneficiaries. The need shall be indicated to the State Government.

(2) They shall indicate the quantum of wheat which is to be converted into Atta to be given to the beneficiaries on the basis of their option. In other words, those beneficiaries who want to take wheat shall indicate to them and those who want to take Atta shall similarly indicate their option. On the basis of

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such intimation as noted above, Associations/Gram Panchayats/Local bodies shall convey the requirement to the State Government. A

- (3) The quantity indicated for conversion into Atta shall be given to the Mills, who after converting wheat into Atta, shall supply it to the FPS so that the intended beneficiaries can get them from the FPS at rates fixed by the concerned governments. B
- (4) The State Governments shall ensure that the actual requirement is being projected by the Associations/Gram Panchayats/Local bodies and similarly whether after milling the supply is made to the FPS to be supplied finally to the consumer. C
- (5) The State Governments shall quarterly submit the necessary data for the information of the Central Government who shall also ensure that all possible steps are being taken by the State Governments to fulfil the intended objectives. D

8. The writ petition is accordingly disposed of.

N.J.

Writ Petition disposed of.