

Hafeez Khan And Ors Vs State Of Chhattisgarh And Ors

Court: Chhattisgarh High Court

Date of Decision: Aug. 27, 2018

Hon'ble Judges: Prashant Kumar Mishra, J

Bench: Single Bench

Advocate: Ashish Shrivastava, P.K. Bhaduri, A.S. Kachhawaha, Pushpa Dwivedi

Final Decision: Disposed Of

Judgement

Prashant Kumar Mishra, J

1. The present petition has been preferred seeking quashment of the demand notices. By order Annexure - P/2 the office of the Divisional Forest

Officer & Managing Director, Zila Vanopaj Sahakari Sangh Maryadit, Uttar Kondagaon, District Bastar has raised demand of Rs.49,73,509/- against

the petitioner for its failure to lift the contracted quantity of Sal seeds during the contract period of 2009.

2. The writ petition has been preferred mainly on the ground that for executing the contract on behalf of the Bastar Oil Mills & Industries Limited, the

petitioners No.1 to 3 were appointed as power of attorney holder, but they were not any entity or authority in the company so as to make them liable

for any recovery which the Government is seeking to enforce in terms of contract against the Bastar Oil Mills & Industries Limited, however, the

Tahsildar has issued demand notices to the petitioners No.1 to 3, therefore, the same is illegal and arbitrary.

3. A perusal of the order Annexure - P/2 passed by the Divisional Forest Officer & Managing Director, Zila Vanopaj Sahakari Sangh Maryadit, Uttar

Kondagaon, District Bastar, would indicate that the recovery was directed against the Bastar Oil Mills & Industries Limited through its Proprietor

P.R. Agrawal, the petitioner No.4 though the agreement was signed by the petitioners in one capacity or the other as power of attorney holder on

behalf of the company. Even if the petitioners were authorised by the Bastar Oil Mills & Industries Limited to sign agreement, in law, it is the

company who was awarded the contract and not those servants or attorney holder of the company who have signed the agreement on behalf of the

company.

4. Annexure - P/1 is the Memorandum & Articles of Association of the Bastar Oil Mills & Industries Limited in which names of the subscribers of

the company are mentioned. The Managing Director of the Zila Vanopaj Sangh, could have ascertained the Directors of the company from whom the

recovery is to be made and thereafter the recovery should have been directed against the Managing Director and Directors of the company rather

than the employees of the company. Petitioner No.4 is the Managing Director of the company, therefore, the notice of recovery against him is valid in

law, however, recovery against the petitioners No.1 to 3 who are the Driver, Office Incharge and Employee, respectively is not in accordance with

law.

5. In the considered view of this Court, the concerned Tahsildar should have effected recovery against the Managing Director and Directors of the

company after obtaining information from the Divisional Forest Officer & Managing Director, Zila Vanopaj Sahakari Sangh Maryadit, Uttar

Kondagaon, District Bastar.

6. Let the respondent-Zila Vanopaj Sahakari Sangh Maryadit, Uttar Kondagaon, District Bastar inform the concerned Tahsildar the name of the

Managing Director and Directors of the Bastar Oil Mills & Industries Limited and thereafter, the Tahsildar shall initiate the recovery proceedings

against the said individuals and the Bastar Oil Mills & Industries Limited in accordance with law.

7. With the aforesaid observations, the writ petition stands disposed of.